

BOARD NOTES

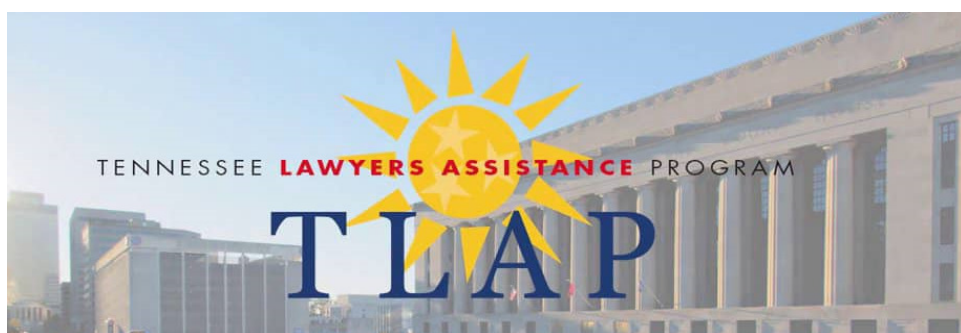
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**SPECIAL
EDITION**

Special Edition 2016

Mental Health & Substance Abuse Information
for Tennessee Attorneys



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Greeting from Jeffrey S. Bivins

Justice, Tennessee Supreme Court

Greetings from your Supreme Court for this very important Special Edition of Board Notes. On behalf of the Court, I want to express our appreciation for this unique joint effort on behalf of the Board of Professional Responsibility, the Tennessee Lawyers Assistance Program, the Board of Law Examiners, and the Continuing Legal Education Commission. We all felt the need to address this important issue in our profession in a united front. In some ways, the results of the ABA/Hazelden study would come as confirmation to some in our profession of the mental health pressures and concerns that many of us see anecdotally from time to time today. However, I think when we see comprehensive scientific evidence of the breadth, depth, and magnitude of the substance use and other mental health concerns within our great profession identified in this study, it demonstrates the pressing need for us to provide a wake up call and a call to arms in this critical area. We hope this Special Edition of Board Notes will do just that.

OPEN

The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys

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Objectives: Rates of substance use and other mental health concerns among attorneys are relatively unknown, despite the potential for harm that attorney impairment poses to the struggling individuals themselves, and to our communities, government, economy, and society. This study measured the prevalence of these concerns among licensed attorneys, their utilization of treatment services, and what barriers existed between them and the services they may need.

Methods: A sample of 12,825 licensed, employed attorneys completed surveys, assessing alcohol use, drug use, and symptoms of depression, anxiety, and stress.

Results: Substantial rates of behavioral health problems were found, with 20.6% screening positive for hazardous, harmful, and potentially alcohol-dependent drinking. Men had a higher proportion of positive screens, and also younger participants and those working in the field for a shorter duration ($P < 0.001$). Age group predicted Alcohol Use Disorders Identification Test scores; respondents 30 years of age or younger were more likely to have a higher score than their older peers ($P < 0.001$). Levels of depression, anxiety, and stress among attorneys were significant, with 28%, 19%, and 23% experiencing symptoms of depression, anxiety, and stress, respectively.

Conclusions: Attorneys experience problematic drinking that is hazardous, harmful, or otherwise consistent with alcohol use disorders at a higher rate than other professional populations. Mental health distress is also significant. These data underscore the need for greater resources for lawyer assistance programs, and also the expansion of available attorney-specific prevention and treatment interventions.

Key Words: attorneys, mental health, prevalence, substance use

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Little is known about the current behavioral health climate in the legal profession. Despite a widespread belief that attorneys experience substance use disorders and other mental health concerns at a high rate, few studies have been undertaken to validate these beliefs empirically or statistically. Although previous research had indicated that those in the legal profession struggle with problematic alcohol use, depression, and anxiety more so than the general population, the issues have largely gone unexamined for decades (Benjamin et al., 1990; Eaton et al., 1990; Beck et al., 1995). The most recent and also the most widely cited research on these issues comes from a 1990 study involving approximately 1200 attorneys in Washington State (Benjamin et al., 1990). Researchers found 18% of attorneys were problem drinkers, which they stated was almost twice the 10% estimated prevalence of alcohol abuse and dependence among American adults at that time. They further found that 19% of the Washington lawyers suffered from statistically significant elevated levels of depression, which they contrasted with the then-current depression estimates of 3% to 9% of individuals in Western industrialized countries.

While the authors of the 1990 study called for additional research about the prevalence of alcoholism and depression among practicing US attorneys, a quarter century has passed with no such data emerging. In contrast, behavioral health issues have been regularly studied among physicians, providing a firmer understanding of the needs of that population (Oreskovich et al., 2012). Although physicians experience substance use disorders at a rate similar to the general population, the public health and safety issues associated with physician impairment have led to intense public and professional interest in the matter (DuPont et al., 2009).

Although the consequences of attorney impairment may seem less direct or urgent than the threat posed by impaired physicians, they are nonetheless profound and far-reaching. As a licensed profession that influences all aspects of society, economy, and government, levels of impairment among attorneys are of great importance and should therefore be closely evaluated (Rothstein, 2008). A scarcity of data on the current rates of substance use and mental health concerns among lawyers, therefore, has substantial implications and must be addressed. Although many in the profession have long understood the need for greater resources and support for attorneys struggling with addiction or other mental health concerns, the formulation of cohesive and informed strategies for addressing those issues has been handicapped by the

outdated and poorly defined scope of the problem (Association of American Law Schools, 1994).

Recognizing this need, we set out to measure the prevalence of substance use and mental health concerns among licensed attorneys, their awareness and utilization of treatment services, and what, if any, barriers exist between them and the services they may need. We report those findings here.

METHODS

Procedures

Before recruiting participants to the study, approval was granted by an institutional review board. To obtain a representative sample of attorneys within the United States, recruitment was coordinated through 19 states. Among them, 15 state bar associations and the 2 largest counties of 1 additional state e-mailed the survey to their members. Those bar associations were instructed to send 3 recruitment e-mails over a 1-month period to all members who were currently licensed attorneys. Three additional states posted the recruitment announcement to their bar association web sites. The recruitment announcements provided a brief synopsis of the study and past research in this area, described the goals of the study, and provided a URL directing people to the consent form and electronic survey. Participants completed measures assessing alcohol use, drug use, and mental health symptoms. Participants were not asked for identifying information, thus allowing them to complete the survey anonymously. Because of concerns regarding potential identification of individual bar members, IP addresses and geo-location data were not tracked.

Participants

A total of 14,895 individuals completed the survey. Participants were included in the analyses if they were currently employed, and employed in the legal profession, resulting in a final sample of 12,825. Due to the nature of recruitment (eg, e-mail blasts, web postings), and that recruitment mailing lists were controlled by the participating bar associations, it is not possible to calculate a participation rate among the entire population. Demographic characteristics are presented in Table 1. Fairly equal numbers of men (53.4%) and women (46.5%) participated in the study. Age was measured in 6 categories from 30 years or younger, and increasing in 10-year increments to 71 years or older; the most commonly reported age group was 31 to 40 years old. The majority of the participants were identified as Caucasian/White (91.3%).

As shown in Table 2, the most commonly reported legal professional career length was 10 years or less (34.8%), followed by 11 to 20 years (22.7%) and 21 to 30 years (20.5%). The most common work environment reported was in private firms (40.9%), among whom the most common positions were Senior Partner (25.0%), Junior Associate (20.5%), and Senior Associate (20.3%). Over two-thirds (67.2%) of the sample reported working 41 hours or more per week.

TABLE 1. Participant Characteristics

	n (%)
Total sample	12825 (100)
Sex	
Men	6824 (53.4)
Women	5941 (46.5)
Age category	
30 or younger	1513 (11.9)
31–40	3205 (25.2)
41–50	2674 (21.0)
51–60	2953 (23.2)
61–70	2050 (16.1)
71 or older	348 (2.7)
Race/ethnicity	
Caucasian/White	11653 (91.3)
Latino/Hispanic	330 (2.6)
Black/African American (non-Hispanic)	317 (2.5)
Multiracial	189 (1.5)
Asian or Pacific Islander	150 (1.2)
Other	84 (0.7)
Native American	35 (0.3)
Marital status	
Married	8985 (70.2)
Single, never married	1790 (14.0)
Divorced	1107 (8.7)
Cohabiting	462 (3.6)
Life partner	184 (1.4)
Widowed	144 (1.1)
Separated	123 (1.0)
Have children	
Yes	8420 (65.8)
No	4384 (34.2)
Substance use in the past 12 mos*	
Alcohol	10874 (84.1)
Tobacco	2163 (16.9)
Sedatives	2015 (15.7)
Marijuana	1307 (10.2)
Opioids	722 (5.6)
Stimulants	612 (4.8)
Cocaine	107 (0.8)

*Substance use includes both illicit and prescribed usage.

Materials

Alcohol Use Disorders Identification Test

The Alcohol Use Disorders Identification Test (AUDIT) (Babor et al., 2001) is a 10-item self-report instrument developed by the World Health Organization (WHO) to screen for hazardous use, harmful use, and the potential for alcohol dependence. The AUDIT generates scores ranging from 0 to 40. Scores of 8 or higher indicate hazardous or harmful alcohol intake, and also possible dependence (Babor et al., 2001). Scores are categorized into zones to reflect increasing severity with zone II reflective of hazardous use, zone III indicative of harmful use, and zone IV warranting full diagnostic evaluation for alcohol use disorder. For the purposes of this study, we use the phrase “problematic use” to capture all 3 of the zones related to a positive AUDIT screen.

The AUDIT is a widely used instrument, with well established validity and reliability across a multitude of populations (Meneses-Gaya et al., 2009). To compare current rates of problem drinking with those found in other populations, AUDIT-C scores were also calculated. The AUDIT-C is a subscale comprised of the first 3 questions of the AUDIT

TABLE 2. Professional Characteristics

	n (%)
Total sample	12825 (100)
Years in field (yrs)	
0–10	4455 (34.8)
11–20	2905 (22.7)
21–30	2623 (20.5)
31–40	2204 (17.2)
41 or more	607 (4.7)
Work environment	
Private firm	5226 (40.9)
Sole practitioner, private practice	2678 (21.0)
In-house government, public, or nonprofit	2500 (19.6)
In-house: corporation or for-profit institution	937 (7.3)
Judicial chambers	750 (7.3)
Other law practice setting	289 (2.3)
College or law school	191 (1.5)
Other setting (not law practice)	144 (1.1)
Bar Administration or Lawyers Assistance Program	55 (0.4)
Firm position	
Clerk or paralegal	128 (2.5)
Junior associate	1063 (20.5)
Senior associate	1052 (20.3)
Junior partner	608 (11.7)
Managing partner	738 (14.2)
Senior partner	1294 (25.0)
Hours per wk	
Under 10 h	238 (1.9)
11–20 h	401 (3.2)
21–30 h	595 (4.7)
31–40 h	2946 (23.2)
41–50 h	5624 (44.2)
51–60 h	2310 (18.2)
61–70 h	474 (3.7)
71 h or more	136 (1.1)
Any litigation	
Yes	9611 (75.0)
No	3197 (25.0)

focused on the quantity and frequency of use, yielding a range of scores from 0 to 12. The results were analyzed using a cut-off score of 5 for men and 4 for women, which have been interpreted as a positive screen for alcohol abuse or possible alcohol dependence (Bradley et al., 1998; Bush et al., 1998). Two other subscales focus on dependence symptoms (eg, impaired control, morning drinking) and harmful use (eg, blackouts, alcohol-related injuries).

Depression Anxiety Stress Scales-21 item version

The Depression Anxiety Stress Scales-21 (DASS-21) is a self-report instrument consisting of three 7-item subscales assessing symptoms of depression, anxiety, and stress. Individual items are scored on a 4-point scale (0–3), allowing for subscale scores ranging from 0 to 21 (Lovibond and Lovibond, 1995). Past studies have shown adequate construct validity and high internal consistency reliability (Antony et al., 1998; Clara et al., 2001; Crawford and Henry, 2003; Henry and Crawford, 2005).

Drug Abuse Screening Test-10 item version

The short-form Drug Abuse Screening Test-10 (DAST) is a 10-item, self-report instrument designed to screen and quantify consequences of drug use in both a clinical and

research setting. The DAST scores range from 0 to 10 and are categorized into low, intermediate, substantial, and severe-concern categories. The DAST-10 correlates highly with both 20-item and full 28-item versions, and has demonstrated reliability and validity (Yudko et al., 2007).

RESULTS

Descriptive statistics were used to outline personal and professional characteristics of the sample. Relationships between variables were measured through χ^2 tests for independence, and comparisons between groups were tested using Mann-Whitney *U* tests and Kruskal-Wallis tests.

Alcohol Use

Of the 12,825 participants included in the analysis, 11,278 completed all 10 questions on the AUDIT, with 20.6% of those participants scoring at a level consistent with problematic drinking. The relationships between demographic and professional characteristics and problematic drinking are summarized in Table 3. Men had a significantly higher proportion of positive screens for problematic use compared with women (χ^2 [1, *N* = 11,229] = 154.57, *P* < 0.001); younger participants had a significantly higher proportion compared with the older age groups (χ^2 [6, *N* = 11,213] = 232.15, *P* < 0.001); and those working in the field for a shorter duration had a significantly higher proportion compared with those who had worked in the field for longer (χ^2 [4, *N* = 11,252] = 230.01, *P* < 0.001). Relative to work environment and position, attorneys working in private firms or for the bar association had higher proportions than those in other environments (χ^2 [8, *N* = 11,244] = 43.75, *P* < 0.001), and higher proportions were also found for those at the junior or senior associate level compared with other positions (χ^2 [6, *N* = 4671] = 61.70, *P* < 0.001).

Of the 12,825 participants, 11,489 completed the first 3 AUDIT questions, allowing an AUDIT-C score to be calculated. Among these participants, 36.4% had an AUDIT-C score consistent with hazardous drinking or possible alcohol abuse or dependence. A significantly higher proportion of women (39.5%) had AUDIT-C scores consistent with problematic use compared with men (33.7%) (χ^2 [1, *N* = 11,440] = 41.93, *P* < 0.001).

A total of 2901 participants (22.6%) reported that they have felt their use of alcohol or other substances was problematic at some point in their lives; of those that felt their use has been a problem, 27.6% reported problematic use manifested before law school, 14.2% during law school, 43.7% within 15 years of completing law school, and 14.6% more than 15 years after completing law school.

An ordinal regression was used to determine the predictive validity of age, position, and number of years in the legal field on problematic drinking behaviors, as measured by the AUDIT. Initial analyses included all 3 factors in a model to predict whether or not respondents would have a clinically significant total AUDIT score of 8 or higher. Age group predicted clinically significant AUDIT scores; respondents 30 years of age or younger were significantly more likely to have a higher score than their older peers (β = 0.52, Wald [*df* = 1] = 4.12, *P* < 0.001). Number of years in the field

TABLE 3. Summary Statistics for Alcohol Use Disorders Identification Test (AUDIT)

	AUDIT Statistics			Problematic %*	P**
	n	M	SD		
Total sample	11,278	5.18	4.53	20.6%	
Sex					
Men	6012	5.75	4.88	25.1%	<0.001
Women	5217	4.52	4.00	15.5%	
Age category (yrs)					
30 or younger	1393	6.43	4.56	31.9%	<0.001
31–40	2877	5.84	4.86	25.1%	
41–50	2345	4.99	4.65	19.1%	
51–60	2548	4.63	4.38	16.2%	
61–70	1753	4.33	3.80	14.4%	
71 or older	297	4.22	3.28	12.1%	
Years in field (yrs)					
0–10	3995	6.08	4.78	28.1%	<0.001
11–20	2523	5.02	4.66	19.2%	
21–30	2272	4.65	4.43	15.6%	
31–40	1938	4.39	3.87	15.0%	
41 or more	524	4.18	3.29	13.2%	
Work environment					
Private firm	4712	5.57	4.59	23.4%	<0.001
Sole practitioner, private practice	2262	4.94	4.72	19.0%	
In-house: government, public, or nonprofit	2198	4.94	4.45	19.2%	
In-house: corporation or for-profit institution	828	4.91	4.15	17.8%	
Judicial chambers	653	4.46	3.83	16.1%	
College or law school	163	4.90	4.66	17.2%	
Bar Administration or Lawyers Assistance Program	50	5.32	4.62	24.0%	
Firm position					
Clerk or paralegal	115	5.05	4.13	16.5%	<0.001
Junior associate	964	6.42	4.57	31.1%	
Senior associate	938	5.89	5.05	26.1%	
Junior partner	552	5.76	4.85	23.6%	
Managing partner	671	5.22	4.53	21.0%	
Senior partner	1159	4.99	4.26	18.5%	

*The AUDIT cut-off for hazardous, harmful, or potential alcohol dependence was set at a score of 8.

**Comparisons were analyzed using Mann-Whitney *U* tests and Kruskal-Wallis tests.

approached significance, with higher AUDIT scores predicted for those just starting out in the legal profession (0–10 yrs of experience) ($\beta = 0.46$, Wald [$df = 1$] = 3.808, $P = 0.051$). Model-based calculated probabilities for respondents aged 30 or younger indicated that they had a mean probability of 0.35 (standard deviation [SD] = 0.01), or a 35% chance for scoring an 8 or higher on the AUDIT; in comparison, those respondents who were 61 or older had a mean probability of 0.17 (SD = 0.01), or a 17% chance of scoring an 8 or higher.

Each of the 3 subscales of the AUDIT was also investigated. For the AUDIT-C, which measures frequency and quantity of alcohol consumed, age was a strong predictor of subscore, with younger respondents demonstrating significantly higher AUDIT-C scores. Respondents who were 30 years old or younger, 31 to 40 years old, and 41 to 50 years old all had significantly higher AUDIT-C scores than their older peers, respectively ($\beta = 1.16$, Wald [$df = 1$] = 24.56, $P < 0.001$; $\beta = 0.86$, Wald [$df = 1$] = 16.08, $P < 0.001$; and $\beta = 0.48$, Wald [$df = 1$] = 6.237, $P = 0.013$), indicating that younger age predicted higher frequencies of drinking and quantity of alcohol consumed. No other factors were significant predictors of AUDIT-C scores. Neither the predictive model for the dependence subscale nor the harmful use subscale indicated significant predictive ability for the 3 included factors.

Drug Use

Participants were questioned regarding their use of various classes of both licit and illicit substances to provide a basis for further study. Participant use of substances is displayed in Table 1. Of participants who endorsed use of a specific substance class in the past 12 months, those using stimulants had the highest rate of weekly usage (74.1%), followed by sedatives (51.3%), tobacco (46.8%), marijuana (31.0%), and opioids (21.6%). Among the entire sample, 26.7% ($n = 3419$) completed the DAST, with a mean score of 1.97 (SD = 1.36). Rates of low, intermediate, substantial, and severe concern were 76.0%, 20.9%, 3.0%, and 0.1%, respectively. Data collected from the DAST were found to not meet the assumptions for more advanced statistical procedures. As a result, no inferences about these data could be made.

Mental Health

Among the sample, 11,516 participants (89.8%) completed all questions on the DASS-21. Relationships between demographic and professional characteristics and depression, anxiety, and stress subscale scores are summarized in Table 4. While men had significantly higher levels of depression ($P < 0.05$) on the DASS-21, women had higher levels of anxiety ($P < 0.001$) and stress ($P < 0.001$). DASS-21 anxiety,

TABLE 4. Summary Statistics for Depression Anxiety Stress Scale (DASS-21)

	DASS Depression				DASS Anxiety				DASS Stress			
	n	M	SD	P*	n	M	SD	P*	n	M	SD	P*
Total sample	12300	3.51	4.29		12277	1.96	2.82		12271	4.97	4.07	
Sex												
Men	6518	3.67	4.46	<0.05	6515	1.84	2.79	<0.001	6514	4.75	4.08	<0.001
Women	5726	3.34	4.08		5705	2.10	2.86		5705	5.22	4.03	
Age category (yrs)												
30 or younger	1476	3.71	4.15	<0.001	1472	2.62	3.18	<0.001	1472	5.54	4.61	<0.001
31–40	3112	3.96	4.50		3113	2.43	3.15		3107	5.99	4.31	
41–50	2572	3.83	4.54		2565	2.03	2.92		2559	5.36	4.12	
51–60	2808	3.41	4.27		2801	1.64	2.50		2802	4.47	3.78	
61–70	1927	2.63	3.65		1933	1.20	2.06		1929	3.46	3.27	
71 or older	326	2.03	3.16		316	0.95	1.73		325	2.72	3.21	
Years in field												
0–10 yrs	4330	3.93	4.45	<0.001	4314	2.51	3.13	<0.001	4322	5.82	4.24	<0.001
11–20 yrs	2800	3.81	4.48		2800	2.09	3.01		2777	5.45	4.20	
21–30 yrs	2499	3.37	4.21		2509	1.67	2.59		2498	4.46	3.79	
31–40 yrs	2069	2.81	3.84		2063	1.22	1.98		2084	3.74	3.43	
41 or more yrs	575	1.95	3.02		564	1.01	1.94		562	2.81	3.01	
Work environment												
Private firm	5028	3.47	4.17	<0.001	5029	2.01	2.85	<0.001	5027	5.11	4.06	<0.001
Sole practitioner, private practice	2568	4.27	4.84		2563	2.18	3.08		2567	5.22	4.34	
In-house: government, public, or nonprofit	2391	3.45	4.26		2378	1.91	2.69		2382	4.91	3.97	
In-house: corporation or for-profit institution	900	2.96	3.66		901	1.84	2.80		898	4.74	3.97	
Judicial chambers	717	2.39	3.50		710	1.31	2.19		712	3.80	3.44	
College or law school	182	2.90	3.72		188	1.43	2.09		183	4.48	3.61	
Bar Administration or Lawyers Assistance Program	55	2.96	3.65		52	1.40	1.94		53	4.74	3.55	
Firm position												
Clerk or paralegal	120	3.98	4.97	<0.001	121	2.10	2.88	<0.001	121	4.68	3.81	<0.001
Junior associate	1034	3.93	4.25		1031	2.73	3.31		1033	5.78	4.16	
Senior associate	1021	4.20	4.60		1020	2.37	2.95		1020	5.91	4.33	
Junior partner	590	3.88	4.22		592	2.16	2.78		586	5.68	4.15	
Managing partner	713	2.77	3.58		706	1.62	2.50		709	4.73	3.84	
Senior partner	1219	2.70	3.61		1230	1.37	2.43		1228	4.08	3.57	
DASS-21 category frequencies	n	%			n	%			n	%		
Normal	8816	71.7			9908	80.7			9485	77.3		
Mild	1172	9.5			1059	8.6			1081	8.8		
Moderate	1278	10.4			615	5.0			1001	8.2		
Severe	496	4.0			310	2.5			546	4.4		
Extremely severe	538	4.4			385	3.1			158	1.3		

*Comparisons were analyzed using Mann-Whitney *U* tests and Kruskal-Wallis tests.

depression, and stress scores decreased as participants' age or years worked in the field increased ($P < 0.001$). When comparing positions within private firms, more senior positions were generally associated with lower DASS-21 subscale scores ($P < 0.001$). Participants classified as nonproblematic drinkers on the AUDIT had lower levels of depression, anxiety, and stress ($P < 0.001$), as measured by the DASS-21. Comparisons of DASS-21 scores by AUDIT drinking classification are outlined in Table 5.

Participants were questioned regarding any past mental health concerns over the course of their legal career, and provided self-report endorsement of any specific mental health concerns they had experienced. The most common mental health conditions reported were anxiety (61.1%), followed by depression (45.7%), social anxiety (16.1%), attention deficit hyperactivity disorder (12.5%), panic disorder (8.0%), and bipolar disorder (2.4%). In addition, 11.5% of the participants reported suicidal thoughts at some point during their career, 2.9% reported self-injurious behaviors, and 0.7% reported at least 1 prior suicide attempt.

Treatment Utilization and Barriers to Treatment

Of the 6.8% of the participants who reported past treatment for alcohol or drug use ($n = 807$), 21.8% ($n = 174$) reported utilizing treatment programs specifically tailored to legal professionals. Participants who had reported prior treatment tailored to legal professionals had significantly lower mean AUDIT scores ($M = 5.84$, $SD = 6.39$) than participants who attended a treatment program not tailored to legal professionals ($M = 7.80$, $SD = 7.09$, $P < 0.001$).

Participants who reported prior treatment for substance use were questioned regarding barriers that impacted their ability to obtain treatment services. Those reporting no prior treatment were questioned regarding hypothetical barriers in the event they were to need future treatment or services. The 2 most common barriers were the same for both groups: not wanting others to find out they needed help (50.6% and 25.7% for the treatment and nontreatment groups, respectively), and concerns regarding privacy or confidentiality (44.2% and 23.4% for the groups, respectively).

TABLE 5. Relationship AUDIT Drinking Classification and DASS-21 Mean Scores

		Nonproblematic	Problematic*	P**
		M (SD)	M (SD)	
DASS-21 total score		9.36 (8.98)	14.77 (11.06)	<0.001
DASS-21 subscale scores	Depression	3.08 (3.93)	5.22 (4.97)	<0.001
	Anxiety	1.71 (2.59)	2.98 (3.41)	<0.001
	Stress	4.59 (3.87)	6.57 (4.38)	<0.001

AUDIT, Alcohol Use Disorders Identification Test; DASS-21, Depression Anxiety Stress Scales-21.

*The AUDIT cut-off for hazardous, harmful, or potential alcohol dependence was set at a score of 8.

**Means were analyzed using Mann-Whitney *U* tests.

DISCUSSION

Our research reveals a concerning amount of behavioral health problems among attorneys in the United States. Our most significant findings are the rates of hazardous, harmful, and potentially alcohol dependent drinking and high rates of depression and anxiety symptoms. We found positive AUDIT screens for 20.6% of our sample; in comparison, 11.8% of a broad, highly educated workforce screened positive on the same measure (Matano et al., 2003). Among physicians and surgeons, Oreskovich et al. (2012) found that 15% screened positive on the AUDIT-C subscale focused on the quantity and frequency of use, whereas 36.4% of our sample screened positive on the same subscale. While rates of problematic drinking in our sample are generally consistent with those reported by Benjamin et al. (1990) in their study of attorneys (18%), we found considerably higher rates of mental health distress.

We also found interesting differences among attorneys at different stages of their careers. Previous research had demonstrated a positive association between the increased prevalence of problematic drinking and an increased amount of years spent in the profession (Benjamin et al., 1990). Our findings represent a direct reversal of that association, with attorneys in the first 10 years of their practice now experiencing the highest rates of problematic use (28.9%), followed by attorneys practicing for 11 to 20 years (20.6%), and continuing to decrease slightly from 21 years or more. These percentages correspond with our findings regarding position within a law firm, with junior associates having the highest rates of problematic use, followed by senior associates, junior partners, and senior partners. This trend is further reinforced by the fact that of the respondents who stated that they believe their alcohol use has been a problem (23%), the majority (44%) indicated that the problem began within the first 15 years of practice, as opposed to those who indicated the problem started before law school (26.7%) or after more than 15 years in the profession (14.5%). Taken together, it is reasonable to surmise from these findings that being in the early stages of one's legal career is strongly correlated with a high risk of developing an alcohol use disorder. Working from the assumption that a majority of new attorneys will be under the age of 40, that conclusion is further supported by the fact that the highest rates of problematic drinking were present among attorneys under the age of 30 (32.3%), followed by

attorneys aged 31 to 40 (26.1%), with declining rates reported thereafter.

Levels of depression, anxiety, and stress among attorneys reported here are significant, with 28%, 19%, and 23% experiencing mild or higher levels of depression, anxiety, and stress, respectively. In terms of career prevalence, 61% reported concerns with anxiety at some point in their career and 46% reported concerns with depression. Mental health concerns often co-occur with alcohol use disorders (Gianoli and Petrakis, 2013), and our study reveals significantly higher levels of depression, anxiety, and stress among those screening positive for problematic alcohol use. Furthermore, these mental health concerns manifested on a similar trajectory to alcohol use disorders, in that they generally decreased as both age and years in the field increased. At the same time, those with depression, anxiety, and stress scores within the normal range endorsed significantly fewer behaviors associated with problematic alcohol use.

While some individuals may drink to cope with their psychological or emotional problems, others may experience those same problems as a result of their drinking. It is not clear which scenario is more prevalent or likely in this population, though the ubiquity of alcohol in the legal professional culture certainly demonstrates both its ready availability and social acceptability, should one choose to cope with their mental health problems in that manner. Attorneys working in private firms experience some of the highest levels of problematic alcohol use compared with other work environments, which may underscore a relationship between professional culture and drinking. Irrespective of causation, we know that co-occurring disorders are more likely to remit when addressed concurrently (Gianoli and Petrakis, 2013). Targeted interventions and strategies to simultaneously address both the alcohol use and mental health of newer attorneys warrant serious consideration and development if we hope to increase overall well being, longevity, and career satisfaction.

Encouragingly, many of the same attorneys who seem to be at risk for alcohol use disorders are also those who should theoretically have the greatest access to, and resources for, therapy, treatment, and other support. Whether through employer-provided health plans or increased personal financial means, attorneys in private firms could have more options for care at their disposal. However, in light of the pervasive fears surrounding their reputation that many identify as a barrier to treatment, it is not at all clear that these individuals would avail themselves of the resources at their disposal while working in the competitive, high-stakes environment found in many private firms.

Compared with other populations, we find the significantly higher prevalence of problematic alcohol use among attorneys to be compelling and suggestive of the need for tailored, profession-informed services. Specialized treatment services and profession-specific guidelines for recovery management have demonstrated efficacy in the physician population, amounting to a level of care that is quantitatively and qualitatively different and more effective than that available to the general public (DuPont et al., 2009).

Our study is subject to limitations. The participants represent a convenience sample recruited through e-mails and

news postings to state bar mailing lists and web sites. Because the participants were not randomly selected, there may be a voluntary response bias, over-representing individuals that have a strong opinion on the issue. Additionally, some of those that may be currently struggling with mental health or substance use issues may have not noticed or declined the invitation to participate. Because the questions in the survey asked about intimate issues, including issues that could jeopardize participants' legal careers if asked in other contexts (eg, illicit drug use), the participants may have withheld information or responded in a way that made them seem more favorable. Participating bar associations voiced a concern over individual members being identified based on responses to questions; therefore no IP addresses or geo-location data were gathered. However, this also raises the possibility that a participant took the survey more than once, although there was no evidence in the data of duplicate responses. Finally, and most importantly, it must be emphasized that estimations of problematic use are not meant to imply that all participants in this study deemed to demonstrate symptoms of alcohol use or other mental health disorders would individually meet diagnostic criteria for such disorders in the context of a structured clinical assessment.

CONCLUSIONS

Attorneys experience problematic drinking that is hazardous, harmful, or otherwise generally consistent with alcohol use disorders at a rate much higher than other populations. These levels of problematic drinking have a strong association with both personal and professional characteristics, most notably sex, age, years in practice, position within firm, and work environment. Depression, anxiety, and stress are also significant problems for this population and most notably associated with the same personal and professional characteristics. The data reported here contribute to the fund of knowledge related to behavioral health concerns among practicing attorneys and serve to inform investments in lawyer assistance programs and an increase in the availability of attorney-specific treatment. Greater education aimed at prevention is also indicated, along with public awareness campaigns within the profession designed to overcome the pervasive stigma surrounding substance use disorders and mental health concerns. The confidential nature of lawyer-assistance programs should be more widely publicized in an effort to overcome the privacy concerns that may create barriers between struggling attorneys and the help they need.

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What Can You Do?

by Laura McClendon

Executive Director, Tennessee Lawyers Assistance Program

The latest research exposing the gravity of the legal profession's substance abuse and mental health issues has hit everyone full force. Bar associations, lawyer assistance programs, law schools, and disciplinary agencies across the country have been scrambling with how to both digest and address what appears to be an epidemic.

Although the statistics are staggering, there is nothing in them that surprises me. I have been with TLAP for over 15 years. During that time, we have seen the devastation of addiction, depression, and suicide engulf and destroy members of the profession in all corners of the state, from small town solo practitioners to judges. The stats in the research are not just numbers to me; they represent people...smart, young, old, male, female, kind, well-loved people—people with jobs and spouses and kids and friends. People who went to college and law school, studied for bar exams, and entered the profession with hope.

So when does the hope go away? Why does the hope go away? Can anything be done about it? Unfortunately, the research provides statistics, not solutions.

It's an unpopular, sad topic. It's been aired on CNN and MSNBC, and written about in USA Today and the New York Times. It's bad press for *all* lawyers and perpetuates the myth that lawyers can't be trusted. It doesn't accurately reflect the goodness and altruism that resides in the profession: the goodness that was the impetus for this special edition of Board Notes.

TLAP works closely with the Board of Professional Responsibility and the Board of Law Examiners to assist individuals in returning—or remaining—healthy, productive members of the legal profession. We want to keep our law students in school so that they can one day be sworn in with their classmates. We want to keep our bar members in good standing and our judges on the bench.

But we need help.

What can you do? You can educate yourself about the signs and symptoms of addiction and depression. You can express your concerns to the colleague at risk. You can schedule presentations that hit the topic head on. So many of our speaking requests start with “we don't want anything depressing,” or “can you do something fun and uplifting?” I love doing motivating

presentations about happiness and stress management, but I think the “depressing” topics have to be discussed.

Below are some basic tips on how you can assist:

- **Visit the TLAP website:** www.tlap.org . It contains information on mental health and substance abuse issues, quizzes, links, and TLAP’s confidentiality policy. You can also make an anonymous referral, request an appointment, sign up to be a volunteer, or make a donation.
- **Call us:** 615.877.TLAP (615.741.3238) If you have concerns or questions about yourself, a colleague or a member of your family, TLAP will listen to your dilemma, ask appropriate questions, and give sound advice and direction. You can rest assured that you or your colleague cannot get in any trouble as a result.
- **Arm yourself with information:** Learn about signs and symptoms of depression, substance abuse, and suicide. TLAP can suggest articles, books, and CLE’s that will educate you about these issues.
- **Involve others:** Many times your friends and colleagues have noticed similar symptoms in the lawyer that you are concerned about. Each of you may have a unique—but essential—piece of the puzzle. Don’t carry the burden alone. Call TLAP and help us complete the picture.
- **Include TLAP:** Our staff and volunteers are eager to do presentations, consult with your firm, and even come to your events. We are not the drink police; we are here to help people with problems.
- **Spread the word:** Once you learn the value of TLAP, don’t keep it a secret! There are other people out there who need to know that there is a safe place to call when experiencing difficulties.
- **Become a volunteer:** Visit <http://www.tlap.org/what-does-a-volunteer-do>

TLAP is a free, confidential assistance program providing consultation, referral, intervention and crisis counseling for lawyers, judges, bar applicants and law students who are suffering with substance abuse, stress, or emotional health issues.

Tennessee Lawyers Assistance Program (TLAP)

*by Judge John Everett Williams
Chair, TLAP Commission*

The Tennessee Lawyer Assistance Program (TLAP) has something for everyone. It offers FREE, ANONYMOUS, and CONFIDENTIAL assistance to judges, lawyers, and law students in a wide variety of areas affecting our profession, including addictions, mental health issues, grief counseling, and suicide prevention training. TLAP is provided by and enjoys the support of the Tennessee Supreme Court and is set forth in Rule 33.

TLAP's confident staff is assisted by hundreds of volunteers throughout the state who are willing to help out fellow lawyers who are struggling with some of the many issues that affect our profession. These volunteers mentor, take and finish cases, provide counsel, undertake interventions, and often serve as monitors to those who seek TLAP's help.

Judge John Everett Williams, chairman of the TLAP Commission, suggests that the best way one can serve the law profession is by serving as a TLAP volunteer, thereby giving back directly to the profession which we serve and love. Lawyers enjoy unique and specific pressures that set our profession apart from others. No one is better suited to help lawyers deal with the many problems they face than a fellow lawyer. The statistics contained later in this edition of *Board Notes* make clear the need is strong for the services that TLAP provides.

The question you should ask yourself is: Are you willing to help your profession in its great hour of need? If so, call TLAP at 877-424-8527 and sign up today as a volunteer.

Landmark Study: U.S. Lawyers Face Higher Rates of Problem Drinking and Mental Health Issues

by Linda Albert

Program Manager, Wisconsin Lawyers Assistance Program (WisLAP)

The first empirical study in 25 years confirms lawyers have significant substance abuse or mental health problems, more so than other professionals or the general population. And many lawyers are not seeking the help they need, for the wrong reasons. Researchers hope this data will promote change within the profession.

The sixth day of January 2007 is a significant date for attorney Anne Renc. That's the day she stopped drinking alcohol. Renc was halfway through her second year at the University of Wisconsin Law School when it hit her. "I realized that if I didn't get a handle on this, I wasn't going to be a lawyer."

Alcoholism was in the family genes. "Drinking became a crutch for me to deal with the stress of law school," said Renc, now an assistant state public defender in Stevens Point. "I wouldn't say law school encouraged drinking, but there was a perception that drinking was part of how you dealt with pressure, at least in a colloquial word-of-mouth way."

For the first half of her law school career, Renc drank heavily, even during final exam periods. She didn't drink every day. But when she did consume alcohol, she drank to excess. "The first year, I was doing what I was supposed to do, maybe not as well as I could. But I was getting by," she said. "Things really started to fall apart the fall semester of my second year, though. I was having a hard time getting to class and doing the work."

"Looking back now, I don't think I would have been able to finish school if I kept drinking. Once I was ready to admit I had a problem, I knew what I had to do." She entered an alcohol and drug treatment program.

Acknowledging a Problem

Renc graduated three semesters later, in 2008. When she applied for her law license, she disclosed her treatment to the Wisconsin Board of Bar Examiners (BBE), which assesses an applicant's character and fitness to practice law. "I got a letter from a psychiatrist and put the BBE in touch with the people helping me in recovery, so they could ensure I was getting better and was fit to practice." In June 2008, Renc was admitted to practice law and became a member of the State Bar of Wisconsin.

She has maintained her sobriety since January 2007, and gets professional help for depression and anxiety, mental health issues that first surfaced when she was in high school but were never treated. “Those mental health episodes were present through law school and remain present today, but I never sought professional help before.”

It’s humbling to admit you have a problem you can’t fix on your own,” Renc said. “It’s even harder for lawyers because we are in the business of fixing things. But we have to change the perception that substance abuse or mental health issues only apply to other people, or people on the street. If we don’t realize that those things apply to us, as lawyers, things won’t change and people won’t get better.”

While Renc is among a small minority of lawyers who openly acknowledge prior or existing substance or mental health conditions, problem drinking and mental health concerns are significant among lawyers, especially younger ones, according to a recent and comprehensive landmark study of U.S. lawyers. The study, called “The Prevalence of Substance Use and Other Mental Health Concerns among American Attorneys,”¹ also indicates that many lawyers are not seeking the help they need, for the wrong reasons.

“Lawyers fear that help won’t be confidential and someone will find out, and if someone finds out, their practice and livelihood will be ruined,” said Linda Albert, program manager of the Wisconsin Lawyers Assistance Program (WisLAP), a State Bar of Wisconsin program, who helped lead the study. “Those are critical errors in their thinking.

“First, programs like WisLAP are confidential. Second, seeking help voluntarily does not, by itself, impact someone’s law license. It just allows them to be healthier, minimizing the risk of breaking ethical rules. We want to dispel the misconceptions, eliminate stigmas attached to mental health and substance abuse issues, and encourage lawyers to get the help they need before bigger problems arise.”

Landmark Study: First Empirical Study in 25 Years

Anecdotally, there’s a widespread belief that lawyers have significant substance abuse problems or mental health disorders, more so than other professionals or the general population. But the last time anyone conducted an empirical study was 1990, when researchers surveyed approximately 1,200 attorneys in Washington State to determine that lawyers there had significantly higher rates of problem drinking and depression than others outside the profession.

“The available data was so limited, and so outdated. In my opinion, it was no longer credible,” said Patrick Krill, director of the Hazelden Betty Ford Foundation’s Legal Professionals Program in Center City, Minn., a rehabilitation center for attorneys, judges, and other legal professionals with addiction and co-occurring mental health issues. Krill is also an attorney and a licensed drug and alcohol counselor.

“That was a real frustration,” says Krill. “It was difficult to raise awareness and promote change in the profession with outdated information. We needed reliable data to illustrate the significance of this problem.”

To that end, Krill spearheaded a landmark study on substance abuse, depression, and anxiety concerns among U.S. lawyers. WisLAP's Albert, also a member of the American Bar Association's Commission on Lawyer Assistance Programs, spent months helping Krill and others form a collaboration. Recognizing the need for reliable data, the ABA approved a resolution to partner on the project. The Hazelden-ABA collaboration resulted in findings that were officially released in the Journal of Addiction Medicine, and were announced Feb. 6 at an ABA-sponsored press conference.

With the help of 15 state bar associations, including the State Bar of Wisconsin, almost 15,000 lawyers from 19 states in every region of the country completed an anonymous 2015 survey assessing alcohol use, drug use, and symptoms of depression, anxiety, stress, and other mental health concerns. Of those, nearly 13,000 respondents met the criteria for inclusion in the study: lawyers had to be licensed in the United States and currently employed in the legal profession as an attorney or judge. Close to equal numbers of men and women participated, identifying their respective age groups, job position types, and whether they worked in private firms, state bar associations, government or nonprofit organizations, or other working environments.

"This is a huge data set," said Krill. "We wanted to get a clear picture of what's going on with licensed and employed attorneys and judges in America, and this is a representative sample from all corners and regions of the country, from the biggest metropolitan areas to the smallest towns. What we found is that the problems are far reaching and consistent. There's no one group within the profession that seems to be immune to behavioral health problems, and the problems are significant."

Alcohol Abuse: 21 Percent Report Problematic Drinking

Approximately 11,300 participants completed a 10-question instrument, known as the Alcohol Use Disorders Identification Test (AUDIT-10), which screens for different levels of problematic alcohol use, including hazardous use, harmful use, and possible alcohol dependence. The test identifies quantity and frequency of use, and asks whether an individual has experienced consequences from drinking. Of the approximately 11,300 respondents, 21 percent scored at a level consistent with problematic drinking. Alcohol abuse was identified in 25 percent of men respondents, compared to 16 percent of women.

Of those identified as working in private firms, approximately 23 percent were considered problem drinkers, the highest of any working environment other than lawyers working in bar associations, at 24 percent. (In some states, not including Wisconsin, the state bar handles lawyer disciplinary matters and has staff attorneys who work on those cases or on other legal matters.)

Of the private-law-firm lawyers identified as junior associates, 31 percent identified as problem drinkers, the highest compared to senior associates (26%), junior partners (24%), managing partners (21%), and senior partners (18.5%). Thus, the data suggests that a higher rate of lower-level lawyers engage in problem drinking behavior, and problem drinking slightly decreases as they move up the law firm chain.

For lawyers in other working environments, the rate of alcohol use disorders is also relatively high under the AUDIT-10. Of those identified as in-house, governmental, public, or nonprofit lawyers, 19 percent were considered problem drinkers. Approximately 19 percent of those identified as sole practitioners had an alcohol use disorder. Approximately 18 percent of the in-house corporate or for-profit organization lawyers were considered problem drinkers, and approximately 16 percent of judges identified as having an alcohol problem.

When sifting data by age and years of practice, it becomes clearer that younger lawyers are struggling the most with alcohol abuse. Respondents identified as 30 years or younger had a 32 percent rate of problem drinking, almost 1 in 3, higher than any other age group. Those attorneys ages 31-40 reported a 25 percent rate of problem drinking. Starting at age 51, the percentages fall below 20 percent.

Problem drinking also correlates with years of practice, based on the data. Of the lawyers who reported working for 0-10 years, approximately 28 percent of them reported problem drinking behavior, compared to those with experience of 11-20 years (19 percent), 21-30 years (16 percent), and 31-40 years (15 percent).

According to Krill, that data is very significant.

“The old data suggested that the longer somebody stayed in the profession, the more likely they were to become a problematic drinker,” said Krill. “That aligned with a perception that the legal culture sort of promotes drinking and it’s a stressful profession, so the more exposure a person has in terms of years, the more likely a problem would develop. We found that that’s not true at all. It’s the reverse now.”

Krill said the data shows the risk of developing a drinking problem is highest for attorneys in their first 10 years of practice. “Being in the early stages of a legal career is strongly correlated with a heightened risk of developing an alcohol use disorder,” Krill said.

Approximately 11,500 participants answered the first three questions of the AUDIT-10, allowing a subset test known as AUDIT-C to be performed. The AUDIT-C, recently used to gauge problem drinking among U.S. physicians, measures frequency and quantity of alcohol consumed. It does not ask about consequences. It simply asks how often an alcohol drink is consumed, how many drinks are consumed in a typical day, and how often six or more drinks are consumed on one occasion.

Of the 11,500 AUDIT-C respondents, 36 percent scored consistently with problematic drinking. That’s well more than double the 15 percent of surgeons and physicians screening positive on an AUDIT-C in 2012, and triple the percentage of highly educated workers sampled in 2003 under the same test. Although not an apples to apples comparison, a recent study of substance abuse and mental health issues among the general U.S. population found that about 12 percent of young adults (ages 18-24) had an alcohol use disorder, and about 6 percent of adults ages 26 or older had an alcohol use disorder.²

Most notably, 44 percent of lawyers reported that their use of alcohol was problematic during the 15 year-period that followed graduation from law school. Another 28 percent reported problematic use that started before law school, and 14.2 percent said their problem drinking started in law school.

Drug Abuse: Picture Less Clear

Researchers used the 10-question Drug Abuse Screening Test (DAST) to gauge low, intermediate, substantial, and severe drug abuse among participant lawyers and judges. Drug abuse includes the nonmedical use of illegal substances or prescription drugs, or the use of prescribed or over-the-counter medications in excess of prescribed or directed amounts. Only 27 percent of all respondents completed the DAST, a much smaller sample than the AUDIT, which had almost full participation.

“We can speculate that a lower sample means drug use is not as prevalent as alcohol use among lawyers, and that’s logical,” Albert said. “But you may also have lawyers who don’t want to voluntarily disclose information about illegal drug use, even though the survey was confidential and anonymous.

“They would likely be more open to answering questions about alcohol, since alcohol is legal. So the picture is less clear. Obviously, any indication of drug abuse among lawyers is concerning,” she said.

Of the 3,419 participants that completed the DAST, 0.1 percent reported severe drug use. Three percent reported substantial drug use, 21 percent reported intermediate use, and 76 percent reported low use. Albert says low use means low quantity and frequency with little or no consequences. The highest rate, 16 percent, reported using sedatives, which include depression, anxiety, or sleeping medications. About 10 percent used marijuana or hash, and 6 percent reported opioid use.

Krill said the significant number of participants reporting low and intermediate drug abuse is troubling when one considers the proliferation and addictive nature of today’s prescription drugs, such as opioid-based painkillers. “If a lawyer is abusing prescription medications, it can quickly turn to ‘substantial’ or ‘severe’ use,” Krill said. “And given the even higher stigma associated with drug use, lawyers may be even more hesitant to seek help.”

Depression, Stress, and Anxiety: 28 Percent Report Concerns with Depression

Approximately 11,500 participants completed a 21-question Depression Anxiety Stress Scales (DASS-21). Approximately 61 percent and 46 percent reported experiencing concerns with anxiety and depression, respectively, at some point in their career. Respondents also reported experiencing social anxiety (16 percent), attention deficit hyperactivity disorder (12.5 percent), panic disorder (8 percent), and bipolar disorder (2.4 percent). More than 11 percent reported suicidal thoughts during their career. Three percent reported self-injurious behavior, and 0.7 percent reported at least one suicide attempt during the course of their career.

Approximately 28 percent reported concerns with mild or high levels of depression, males at a higher rate than females, and 19 percent reported mild or high levels of anxiety, females at a higher rate than males. Of all respondents, 23 percent reported mild or high levels of stress, which involves mental or emotional strain attached to a certain event. Anxiety involves a constant or consistent feeling of worry.

Like the rates associated with alcohol use, mental health conditions were higher in younger or less experienced attorneys, and generally decreased as age and years of experience increased. The study also revealed significantly higher levels of anxiety, depression, and stress among those with problematic alcohol use, meaning mental health concerns co-occurred with an alcohol use disorder.

“We see that many lawyers are drinking as a way to cope with stress, anxiety, or depression. Others may experience those mental health conditions as a direct result of their drinking,” Albert said. “In both equations, alcohol is a common denominator that, if removed, will improve a lawyer’s health and wellness.”

The annual study of substance abuse and mental health issues among the general U.S. population found that more than 9 percent of those ages 18-24 experienced a major depressive episode in 2014 – symptoms lasting two weeks or longer – compared to 7 percent of those ages 26-49, and about 5 percent of those ages 50 and older.³

Barriers to Treatment

Only 7 percent of participants report that they sought treatment for alcohol or drug use, and only 22 percent of those respondents went through programs tailored to legal professionals. But the participants who went through treatment programs tailored specifically for legal professionals had significantly lower (healthier) AUDIT scores than those who sought treatment elsewhere. This suggests that programs with a unique understanding of lawyers and their work can better address the problems.

Respondents were asked to identify the biggest barriers to seeking drug or alcohol treatment. About 67.5 percent said they didn’t want others to find out, and 64 percent identified privacy and confidentiality as a major barrier. Approximately 31 percent noted concerns about losing their law license, and 18 percent said they didn’t know who to ask or didn’t have the money for treatment. Respondents raised the same concerns when asked about the barriers to seeking help for mental health issues. Approximately 55 percent said they didn’t want others to find out, and 47 percent raised confidentiality and privacy concerns. Another 22 percent said they didn’t know who to ask for help.

Close to 70 percent of respondents said alcohol and drug addiction or mental health topics were not offered in law school. Approximately 84 percent said they were aware of lawyer assistance programs (LAPs), but only approximately 40 percent said they would be likely to use those services if the need arose. Again, privacy and confidentiality concerns were cited as the major barrier to seeking help through LAP programs.

Substance Abuse and Mental Health Issues: Why So High?

Albert and Krill say that question cannot be answered definitively. But the data will help substance and mental health professionals formulate possible answers. They suspect lawyers may have higher rates than other professionals or educated populations based on the inherent stress of the job. As advocates and counselors, lawyers are trusted to handle important matters with high stakes for clients.

They can also be susceptible to compassion fatigue, characterized as the “cumulative physical, emotional and psychological effects of being continually exposed to traumatic stories or events when working in a helping capacity.”⁴ No doubt lawyers seek outlets to deal with pressures and stress, and two avenues exist: positive outlets, like exercise, and negative ones, like substance abuse.

Albert and Krill say lawyers also can be somewhat isolated, or enabled by the profession’s drinking culture. Physicians, for instance, work in community environments where people will notice problematic behaviors. That’s not always true for lawyers, especially solo practitioners. There may be no one asking them if they’re okay, Albert said. Or staff members may cover for lawyers, fearing any consequences that impact the lawyer will also impact their own employment.

In addition, younger lawyers are entering the profession with higher rates of student loan debt and fewer job opportunities, aside from the normal stress of learning to be a practicing lawyer. Those additional factors may contribute to the higher rates of substance abuse and mental health concerns among younger lawyers with fewer years of practice, Albert says.

“Newer and younger lawyers may be forced to take or work in jobs they don’t like, because they just need the work,” Albert said. “Some have to put off marriage or having families because of financial concerns. There is real stress that compounds from that, stress that can lead to depression, anxiety, and substance abuse issues. It’s logical to conclude that those issues could arise.”

Drinking has become (or always has been) socially acceptable in the legal profession, Krill and Albert note. Many law students drink to blow off steam, as Renc explained. Those habits may carry over into law practice, where alcohol can be viewed as an acceptable pressure valve. It’s also a vehicle to celebrate success, face defeat, or network with clients, potential clients, or other lawyers. The lawyer drinking culture is even popularized through various TV law dramas, perpetuating the perception that drinking is just what lawyers do. How many shows end with two lawyers sipping scotch, discussing the case? How many times do you hear TV lawyers utter the phrase: “I need a drink.” Moderate and responsible alcohol consumption aside, what happens when lawyers actually feel the “need” to drink?

When drinking becomes problematic, or lawyers develop mental health conditions, the pervasive stigma associated with those issues creates a barrier for lawyers to seek help, Krill says. “There’s a lot of stigma attached to substance use disorders and mental illness. Because a lawyer’s reputation is so important, there’s a fear in admitting vulnerability or weakness, or admitting that we are struggling,” he said. “And those fears can be justified, because this can be a harshly judgmental and highly competitive environment. But when this data comes out and people realize

how many lawyers are struggling, it will be difficult to view these issues through such a judgmental lens. That's my hope anyway."

Barriers to Early Intervention: Searching for a System-wide Solution

Albert says fighting the stigmas of mental health and substance abuse needs to happen on many levels. "It needs to be a systems approach," she said. "From law schools to bar associations, from licensing and disciplinary agencies to employers and lawyer assistance programs, all legal stakeholders must work together to address the problem," she said. "We still have this kind of blame-shame bias. We can break those stigmas by educating people, and helping them understand that it's smarter to get help."

Renc understands. She tells her story openly because she wants fellow lawyers to know that seeking help is the right decision. Her decision to get treatment in law school undoubtedly saved her legal career, she says, and her disclosure to the BBE did not prevent her from obtaining a law license. That is, law students with substance abuse or mental health issues should not wait to get help.

Jacquelynn Rothstein, director of the BBE, says that when applicants disclose drug, alcohol, and mental health issues, one of the first questions the BBE considers is how that problem has affected an applicant's life and how the applicant has addressed it. "We also look at whether those conditions affected an applicant in an employment or academic setting, whether there were arrests, convictions, or other problematic behaviors. An applicant's conduct and behavior are an integral part of determining whether an applicant is fit to practice," she said.

"If an applicant is being treated and there's evidence of treatment after having a history of problematic behavior, then that in and of itself may not prevent the applicant from getting admitted. That is true," she said. "But if you have an ongoing active history of drug, alcohol, or mental health issues, and you have not treated it, that may well be a problem for the applicant. Obviously, we want to encourage those in need of treatment to obtain it."

Although Rothstein acknowledges that disclosing a drug, alcohol, or mental health-related concern alone may not bar applicants from the practice of law, she is quick to point out that each case is different. "We look at it on a case-by-case basis. There is no blanket approach to addressing these issues. There are numerous factors in determining an applicant's character and fitness to practice law."

As of 2011, the BBE is also authorized to grant conditional admission for applicants whose record may otherwise warrant denial but who agree to certain conditions and demonstrate ongoing recovery and the ability to meet the competence and character and fitness requirements.

In 2014, seven applicants were conditionally admitted based on substance use-related issues, one was conditionally admitted based on mental health issues, and one had both substance abuse and mental health issues.

"Conditional admission may be another option for applicants who are willing to do what they need to do," Rothstein said. "We certainly are not trying to discourage people from getting treatment."

But we also don't want to send the message that abusing drugs and alcohol is okay. Because it isn't."

Importantly, an individual is conditionally admitted and the terms of the conditional admission are confidential, with some exceptions. In addition, conditions may require monitoring or other involvement with WisLAP, a confidential program for lawyers and judges whether they seek help voluntarily or are mandated to participate. But what people may not know is that WisLAP is also open to law students, and the data shows that law students may need a place to turn.

Another recent study of law students from 15 law schools found very high rates of binge drinking, marijuana, and prescription drug abuse, in addition to high rates of depression and anxiety. Approximately 79 percent of those using prescription drugs without a prescription used Adderall, a stimulant, to help them concentrate and study longer.

When asked what factors would discourage students from seeking help for drug or alcohol problems, more than 60 percent identified a potential threat to bar admission, job, or academic status. The study's authors concluded that attitudes and cultures must change; students must be encouraged to get help rather than keeping mental health and substance abuse issues secret.

Office of Lawyer Regulation: Substance Abuse, Mental Health Issues Underlie Grievances

Some lawyers fear losing their law license if someone finds out they are seeking treatment for drugs, alcohol, or mental health-related issues. The Office of Lawyer Regulation (OLR) investigates grievances against lawyers to determine if they have violated their ethical duties under the Wisconsin Rules of Professional Conduct for Attorneys. OLR Director Keith Sellen says many grievances are sent to the OLR, not because a lawyer has decided to seek treatment for their problem, but precisely because a lawyer has not sought help and the condition starts affecting the lawyer's ability to practice law.

"We see a lot of grievances where the lawyer's practice is struggling because of substance abuse, depression, or some other medical incapacity," Sellen said. "A lot of these cases involve an expansive pattern of failure to act with diligence on behalf of a client, or failure to communicate. In other words, a chemical dependency may be preventing them from doing the work required of the representation."

Sellen noted that the OLR often sees cases after it's too late. "If lawyers are able to identify the concern and cause earlier, before it becomes a real problem, and they are willing to seek help through WisLAP's confidential program, then a lot of these cases where conduct gets out of control could be avoided."

On the flip side, once a lawyer has fallen through the cracks and the OLR gets involved, there can be ways to get back on track. "When lawyers are referred for mandatory treatment and monitoring, those cases are assigned to WisLAP. We've had success with lawyers being able to recover and restore themselves and get their practices back up and running. So WisLAP works in two ways. It's preventative and restorative."

Sellen acknowledges that lawyers may have reasons for not seeking help, "but those fears should be overcome by the potential ramifications of not seeking help. The bottom line is that you can do

this in a way that's confidential," he said. "WisLAP does not report that to the OLR. This is an appropriate policy because we want to encourage lawyers to take advantage of the confidential program," he said.

Moving Forward: Defining a Response

"I can't say that there was any good news that came from this study," Krill said. "The good news comes from what we can do with it. Now we know the scope of the problem. Now we can define a response, and develop more informed strategies for dealing with it."

Krill said law schools could use the data, especially data on the struggles of young lawyers in the early stages of their careers, to incorporate health and wellness into their law school curriculums. Bar associations and continuing legal education (CLE) accreditation agencies such as the BBE could evaluate CLE requirements to determine programming that addresses substance abuse and mental health issues.

For Wisconsin attorney Paula Davis-Laack, who now runs the Davis Laack Resilience Institute, the data informs her work helping lawyers on stress management, burnout prevention, and resilience. A former practicing lawyer, she earned a master's degree in applied positive psychology and is trained in the study of resilience. She teaches specific skills to help lawyers deal with adversity and stress.

"I've been looking for this type of data," said Davis-Laack, who practiced law for seven years before experiencing burnout. "It will help as I approach law schools and law firms interested in my training and workshops on resilience. They want to see data and research that says lawyers need these skills."

"I do some work with law schools and the students are really craving this type of information," she said. "They want to learn how they can have a sustainable career in this profession, especially when they hear stories about the high rates of substance abuse, depression, and anxiety among lawyers."

Davis-Laack says that law firms are also interested in her work on resilience as they lose second- or third-year associates. "They don't have the coping mechanisms to get through uncertainty in the first few years of practice. Suddenly they hit a road bump, and they think a new firm will fix the problem."

Existing research also shows that lawyers are not the most resilient bunch, Davis-Laack says. "Lawyers tend to be somewhat thin-skinned. They don't like to be called out and corrected. When challenges and adversity happen, they don't have the right coping skills. They tend to resort to negative behaviors like excess drinking. That's typically what I'm finding, and now we are seeing that in this new data."

Richard Brown, former chief judge of the Wisconsin Court of Appeals and a former member of the ABA Commission on Lawyer Assistance Programs, says this data underscores the importance of educating judges and lawyers about the warning signs and the resources available to help them.

“Part of the problem is that people with depression, anxiety, or substance abuse issues don’t often know they need help. They may be unhappy, they may be drinking too much, but they don’t consider themselves to need help. To me, part of the problem is getting the horse to water. That means alerting people that they should seek help if they start seeing the symptoms. A lot of it is education.”

Judge Brown noted that when he was on the ABA commission several years ago, Wisconsin was selected as part of a pilot project to conduct judicial roundtables, where judges would get together and discuss the stresses of the day-to-day job. At first, it didn’t work.

“But we kept doing it and finally, we got to a point where judges were finding this to be very helpful. We aren’t talking about case law. We are talking about what to do when something is bothering you. How do you cope with the stress of the job? You hear people talking and realize we are all dealing with the same kind of issues. And we are educating each other on what might be considered a problem.”

Brown said a judicial roundtable was held at the Wisconsin Judicial College last year. “Everybody came away saying we should do this again next year. Maybe the lawyers could do something like that.” Albert says WisLAP has started doing just that – roundtable discussions with both lawyers and law students.

Krill, who spearheaded the study, likes where these kinds of ideas are headed. “While nobody can be excited about the specific findings, I am really excited about the impact this can have on the profession. Hopefully it can help us help a lot of people.”

Says WisLAP’s Albert: “This study triggers a call to action for all parts of the legal system to join together to make a positive impact. We need a cultural shift that puts health and wellness into the equation of lawyering. Ensuring lawyers are healthy is a central part of professional responsibility. But it’s going to require a collective effort among those who interface with lawyers throughout their careers.”

Endnotes

¹ P. Krill, R. Johnson, L. Albert “The Prevalence of Substance Use and Other Mental Health Concerns among American Attorneys.” J. Addiction Medicine, Jan./Feb. 2016.

² *Behavioral Health Trends in the United States: Results from the 2014 National Survey on Drug Use and Health*, U.S. Dep’t of Health & Human Serv., Substance Abuse and Mental Health Services Admin. (Sept. 2015).

³ Dianne Molvig, *The Toll of Trauma*, 84 Wis. Law. 12 (Dec. 2011).

⁴ See *Helping Law Students Get the Help They Need*, 84 The Bar Examiner 4 (December 2015); see also *Lawyer Assistance Programs: Advocating for a Systems Approach to Health and Wellness for Law Students and Legal Professionals*, 84 The Bar Examiner 4 (December 2015).

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Does the Board of Professional Responsibility Consider Substance Abuse or Mental Health Issues When Imposing Discipline?

by Michael U. King
Chair, Board of Professional Responsibility

As an attorney in private practice, I understand that no one wants to call the Board of Professional Responsibility to self report a violation of the Rules of Professional conduct. The fear of that day often times compounds attorneys' problems and delays substance abuse or mental health treatment. The purpose of this article is to alleviate some of those fears by providing information about the disciplinary process and how substance abuse and mental health issues can affect discipline.

The mission statement of the Tennessee Board of Professional Responsibility has three distinct parts. The first part is the one that keeps us up at night, which is "to assist the Court in protecting the public from harm from unethical lawyers by administering the disciplinary process." What is often times missed is that the Board is also tasked with assisting "the public by providing information about the judicial system and the disciplinary system for lawyers; and, to assist lawyers by interpreting and applying the Court's disciplinary rules." It's this last section dealing with assistance to lawyers that I want to emphasize.

The BPR does not discipline lawyers simply because they have substance abuse problems or mental health issues. If you are struggling with substance abuse, rest assured that disciplinary counsel will be happy to answer your questions, explain the rules of professional conduct and refer you to the Tennessee Lawyers Assistance Program (TLAP) for evaluation and treatment.

So what should you do if your substance abuse or mental health problem has caused a violation of the Rules of Professional Conduct? The simple answer is: be honest; tell us about your problem; and ask for help. I know it's easier said than done, but let me explain. First and foremost, your mental and physical health is more important than your profession. If you're healthy, you are more productive and less likely to violate the rules of professional conduct.

Second, hiding substance abuse and mental health issues generally compound disciplinary problems. For example, let's say an attorney has violated RPC 1.8 Lack of Diligence by failing to timely file a complaint. Assuming this is an isolated occurrence, the ABA Standards For Imposing Lawyer Sanctions, Rule 4.4 would indicate that a public censure is appropriate. Should the same lawyer fail to disclose an underlying substance abuse or mental health problem that results in additional violations of RPC 1.8, the ABA Standards For Imposing Lawyer Sanctions, Rule 4.41 and Rule 4.42, provide that suspension or disbarment is appropriate when a pattern of neglect results in harm or potential harm to the client.

Last but not least, the Board considers aggravating and mitigating factors when imposing attorney discipline. Rule 9.22 of the ABA Standards for Imposing Lawyer Sanctions lists the following aggravating factors: prior discipline; dishonesty or selfish motive; pattern of misconduct; multiple offenses; bad faith obstruction of the disciplinary proceeding; false statements, false evidence or other deceptive practices during the disciplinary process; refusal to acknowledge wrongful nature of conduct; vulnerability of the client; substantial experience in the practice of law; indifference to making restitution; and illegal conduct, including that involving the use of controlled substances. By failing to face substance abuse and mental health problems, attorneys often times exacerbate their situation resulting in more severe discipline.

In contrast, Rule 9.32 sets out mitigating factors which include, in part: the absence of a dishonest or selfish motive; full and free disclosure to disciplinary board or a cooperative attitude toward the proceedings; physical disability; mental disability or chemical dependency including alcoholism or drug abuse; and remorse. The Board considers mental disability or chemical dependency to be a mitigating factor only in those instances when the Attorney acknowledges the problem and seeks treatment. Rule 9.32(i) defines as a mitigating factor:

- (i) Mental disability or chemical dependency including alcoholism or drug abuse when:
 - (1) There is medical evidence that the respondent is affected by a chemical dependency or mental disability;
 - (2) The chemical dependency or mental disability caused the misconduct;
 - (3) The respondent's recovery from the chemical dependency or mental disability is demonstrated by a meaningful and sustained period of successful rehabilitation; and
 - (4) The recovery arrested the misconduct and recurrence of that misconduct is unlikely.
 - (5)

Tennessee Supreme Court Rule 9, §36.1 allows the Board, its hearing panels or Disciplinary Counsel to make written referrals to TLAP and monitor the attorney's progress and compliance with a drug, alcohol or mental health treatment plan.

In summary, the Board's goals are to protect the public and assist lawyers through information. Both of these goals are accomplished by keeping our lawyers healthy and providing the assistance they need to treat substance abuse and mental health issues. The ABA/Hazelden Study included in this Special Edition of Board Notes provides alarming statistics about the mental health of our profession. If you or someone you know has a substance abuse or mental health issue, please take advantage of the free services offered by the Tennessee Lawyers Assistance Program, 877-424-8527.

Unwell – Lawyers and the Art of Practicing Wellness

by Tracy Kane, Partner, Dodson, Parker, Behm & Capparella, P.C.

You are a “Super Lawyer,” named “Best of the Bar,” president of this or that organization, recently promoted, won that big case, or received an above-average bonus last year. You are hitting all your marks, but are you well?

Statistics show us that while many of us are “successful” by the measuring sticks of our profession, we are not well. In fact, we are precariously unwell and it is not good for our firms, our clients, our community, our respective families, and most importantly, it is not good for us individually.

Many of us who are even “healthy” are not always—or at least not consistently—“well.”

For over two decades now, bar associations around the country have been citing statistics that showed 18% of lawyers were problem drinkers (nearly twice the national average at the time)¹ and 19% suffered from statistically significant elevated levels of depression (compared to just 3% to 9% of individuals in Western industrialized countries). In response, lawyer assistance programs have been implemented around the country, most of which have been operating for over a decade now. Things should be getting better, right? Wrong.

With the most relied upon statistics for lawyer health and wellness now a quarter of century old, the American Bar Association (ABA) Commission on Lawyer Assistance Programs and the Hazelden Betty Ford Foundation undertook a new study in 2014, the results of which were just released this past February.² The report reveals that the wellness landscape is not only not better for lawyers, it is worse and it’s particularly worse for young lawyers practicing ten years or less.

The recent study, which set out to conduct the most comprehensive national research to date on the topic, reported that 21% of licensed, employed lawyers qualify as problem drinkers, 28% struggle with some level of depression, and 19% demonstrate symptoms of anxiety.³ The study, published in the *Journal of Addiction Medicine*, found that younger attorneys in the first 10 years of practice exhibit the highest incidence of these problems.⁴ The study also compared attorneys with other professionals—including doctors—and determined that lawyers experience alcohol-use disorders at a far higher rate than other professions.⁵ The results also showed that the most common barriers for attorneys seeking help were fear of others finding out and general concerns about confidentiality.⁶

With all the “programs” and “interventions” that have been instituted over the last two decades, why are we not even incrementally better? You can blame the fragile economy, disruptive technological changes facing the profession (dare I say... “legal industry”), the billable hour, or our constantly-wired lives, but these things can be said of just about any profession or industry sector. Lawyers still outpace all other professions in the percentage that suffer from anxiety, depression, and substance abuse.

Maybe you are asking yourself right now, “why is attorney health and wellness important to the bar? Who cares if I’m happy all the time or not?”

I would venture to say that it’s not about trying to make lawyers “happy,” it’s about the quality of our professional and personal lives and the sustainability of our profession in a new technological century.

Practicing law is stressful and sometimes your decisions have life or death consequences—or at the very least life-altering—for your clients. Practicing law often means shouldering the stress and pain and suffering of our clients, but high stakes work is the not exclusive purview of lawyers. Many lawyers seem to wear their misery as a badge of honor; that somehow, if they are the most over-worked and miserable person, it must mean they are the best lawyer to their clients.

Unmanaged stress, however, can have a very direct, negative impact on your body, thoughts, feelings and behavior.⁷ Stressed out, sleep-deprived, unhappy, and unhealthy lawyers do not serve their clients well and often there are tangible signs of this: poor quality work, missed deadlines, poor client communication and responsiveness, and even more egregious acts like alcohol or drug abuse, misuse of client funds, and self-harm like overdose or suicide.

I believe it is possible to be both a great lawyer and a healthy lawyer, but it requires prioritizing health and practicing wellness daily.

For me, I did not grow up prioritizing daily health and wellness. I grew up a very southern girl who loved honeybuns and bacon and hated to sweat. I was active, but did not practice wellness. When I was 20, however, my health seemed to evaporate overnight. I lost my energy and focus and suffered from fast-moving, extreme mood swings. In short, I was going “crazy,” or at least that’s what it felt like.

As it turned out, I was diagnosed with hypothyroidism. As I learned about the condition, I got great advice from my doctor at the time that fundamentally changed how I thought about health. In essence, if I wasn’t starting from my best baseline health, there were limits to what any medication was going to do.

From that point forward, I educated myself about nutrition—vitamins, minerals, chemicals, toxins, fats and carbohydrates, etc. I knew the basics, but I didn’t really understand the chemistry of it. I became proactive and intentional about what I ate and drank. I started to exercise regularly and found a way to stay motivated by training for races. (I am a type-A lawyer after all.) I was fortunate that a temporary health set-back forced me at an early age to change the way I thought about health and wellness from “something to do later” to “something I do every day.”

What does it mean to be “well”?

Wellness is not static. It is not something you achieve or a final destination. It is a practice, something lawyers should find quite easy to understand.

A practice is something that you do every day, not with an expectation of perfection, but in an effort to get a little better—a little more efficient, a little more effective—every day. This is true whether you are practicing an art form, practicing law, or practicing wellness.

In a practice, you focus on daily mastery (not ultimate perfection). In a practice, you expect that some days you achieve the best version of yourself and some days you fall short, but you get up the next day and continue to practice. Even those that practice wellness can get hit with challenges or a loss that throws you off course and leaves you spinning. Sometimes you need help to get back into your practice.

What are the fundamentals of a wellness practice?

In response to the ABA/Hazelden Betty Ford Foundation study, the American Bar Association in collaboration with the ABA Young Lawyers' Division developed online tools for lawyers focused on four essential elements of health: (1) sleep/rest, (2) emotional/social connections, (3) physical activity, and (4) nutrition.⁸

Sleep/rest – Sleep is often one of the first and easiest things people trade for a few additional hours to get things done, but scientific studies have started to show that there are not only short-term consequences, but also long-term health impacts.⁹ Beyond sleep, there is a growing movement that mindful meditation can be particularly helpful to lawyers to reduce stress and restore civility.¹⁰ The Mindfulness in the Law Joint Task Force was established in 2012 to provide information, training, and the opportunity for lawyers to gather to share mindful meditation sittings as a vehicle for restoring civility, decreasing stress, and enhancing the fundamental fabric of the legal community.¹¹

Emotional/social connections – 21st century lawyers often practice in isolation, even when they are in large firms with tons of people in the building. Lawyers don't often interact with other people outside of email. We write and revise agreements or briefs on our computer alone in our office and circulate drafts by email. We even interface with most courts and administrative agencies today through electronic filing and communication. Research is starting to find a negative health impact related to social isolation, including less resilience to everyday stress as well as things like vascular resistance, a risk factor for hypertension, slower wound healing, and poorer sleep efficiency.¹² There is a growing body of research that having meaningful relationships with peers and family ("attachments") influences health and disease outcomes through different cortisol patterns.¹³ So spend a few extra minutes over the proverbial watercooler, head to dinner with family or friends, or make the effort to stop by the next NBA Happy Hour.

Physical activity – It probably goes without saying all the positive health impacts of incorporating even moderate physical activity into your life, but did you also know that increased physical activity positively impacts your mental health as well. Something as simple as a brisk, 20-minute walk can enhance your mood and clear your mind.¹⁴

Nutrition – If you can only muster the will to change one health-related aspect of your life, the top of the list should be the substances you ingest. Other than sleep, it is the most impactful change you can make. Not only does the food you eat affect your physical health in ways such as heart

disease and diabetes, but it is the fuel that powers your emotional and mental health. In short, crap in = crap out.

Given that we have known about our profession's inordinate propensity to be unwell for 25 years and have implemented various programs to improve our state of health in spite of that, and yet wellness among lawyers continues to get worse, I believe a more fundamental shift in both thought and deed must happen to affect change.

What are we going to do about it?

We should start by adopting wellness as part of our core professional values, just like pro bono service and continuing education. We should hold ourselves accountable to our values by recognizing the best examples of good lawyers practicing wellness. We should change the words we use to describe our profession and start mentoring each other in wellness.

You can incorporate small, essential elements of wellness into each day—an apple instead of a candy bar (or maybe just a smaller candy bar...), a 10-minute nap or mindful meditation in the afternoon, a mid-day walk in the sunshine, or a brief but meaningful question for your colleague like, “What was your favorite part of today?”

With all of this in mind, the Nashville Bar Association Attorney Health and Wellness Committee has committed to change the conversation about health by finding big and small ways to support the practice of wellness in our legal community each day, month, and year.

Throughout the year, we aim to provide information about health and wellness topics in the weekly newsletter and monthly in the Journal. We are working on free weekly yoga classes for NBA members as well as regular walking, running, and cycling groups around town. There will be CLEs on implementing a wellness plan at your firm, practicing mindful meditation, and identifying and supporting—without judgement—those among us who are struggling in their practice. We will encourage you to run or walk the Race Judicata, play a round of golf in the annual NBA golf tournament, or challenge yourself to walk 10,000 steps per day during the month of November. As we integrate health and wellness information and programming into the daily life of the members, we also want to be sure that we recognize those firms and individuals who embody our values and demonstrate a commitment to the practice of wellness throughout the year.

The Nashville Bar Association Attorney Health and Wellness Committee is ready to change the conversation about health and wellness among Nashville lawyers and we hope that by doing so, little by little we will move into the day where each lawyer in our Bar has a thriving practice in one of the nation's healthiest profession. ■

Endnotes

¹ The most recent and also the most widely cited research on lawyer substance abuse and mental health issues comes from a 1990 study involving approximately 1200 attorneys in Washington State. See G.A. Benjamin, E. Darling & B. Sales, *The prevalence of depression, alcohol abuse, and cocaine abuse among United States lawyers*, 13 INT.J. LAW PSYCH. 233-46 (1990).

² News Release, ABA Commission on Lawyer Assistance Programs, ABA, Hazelden Betty Ford Foundation release first national study on attorney substance use, mental health concerns (Feb. 3, 2016), *available at* AmericanBar.org/News/abanews/aba-news-archives/2016/02/aba_hazelden_betty.html; *see also* Patrick R., Krill, JD, LLM, Ryan Johnson, MA & Linda Albert, MSSW, *The Prevalence of Substance Use and Other mental Health Concerns Among American Attorneys*, 10 J. Addiction Med. 46 (Feb. 2016), *available at* Journals.lww.com/JournalAddiction-Medicine/Fulltext/2016/02000/The_Prevalence_of_Substance_Use_and_Other_Mental.8.aspx.

³ Krill, et al, *supra* note 2, at 48-50.

⁴ *Id.* at 51.

⁵ *Id.* at 52.

⁶ *Id.* at 50.

⁷ *See, e.g.*, Mayo Clinic, *Stress symptoms: Effects on your body and behavior* (July 19, 2013), MayoClinic.org/Healthy-lifestyle/Stress-Management/In-Depth/Stress-Symptoms/art-20050987; American Psychological Association, *Stress Effects on the Body*, Apa.org/HelpCenter/Stress-Body.aspx.

⁸ Whether or not you are a member of the ABA, you can find news, information, and tips in each of these areas at AmericanBar.org/Groups/Young_Lawyers/Initiatives/fit_to_practice.html.

⁹ Multiple studies link sleep deprivation to type 2 diabetes, obesity, cardiovascular disease, among other chronic issues, *See, e.g.*, Division of Sleep Medicine at Harvard Medical School, *Sleep and Health*, HealthySleep.med.harvard.edu/Nee-Sleep/whats-in-it-for-you/health.

¹⁰ Mindfulness is an awareness of life in the present moment—something many experts and practitioners note is easy to say, but difficult to achieve. We lead busy lives, we constantly hold the past and project the future and in that state of clutter, we experience greater stress and anxiety. Mindfulness creates the opportunity, no matter how brief, to pause, breathe, and become aware of how we are reacting in a given situation. This instance provides an opportunity to moderate our reaction and respond thoughtfully. *See, e.g.*, Jan. L. Jacobowitz, *The Benefits of Mindfulness for Lawyers*, 20 TYL (Winter 2016), *available to ABA members only at* AmericanBar.org/Content/dam/aba/publications/young_lawyers/TYL_v20n02_WI16_Layout_WEB.pdf-273k-2016-03-15.

¹¹ *Id.*; *see also* Mindfulness in Law Joint Task Force, MindfulnessInLawCommittee.com.

¹² John T. Cacioppo & Louise C. Hawldey, *Social Isolation and Health, with an Emphasis on Underlying Mechanisms*, 46 PERSPECTIVES IN BIO & MED. S39-S52 (Summer 2003 supp.), *available at* Psychology.uchicago.edu/People/Faculty/Cacioppo/jtcreprints/ch03.pdf.

¹³ *See, e.g.*, M.C. Pistole, Amber Roberts & Marion L. Chapman, *Attachment, Relationship Maintenance, and Stress In Long Distance and Geographically Close Romantic Relationships*, 27 J. SOC. & PERSONAL RELATIONSHIPS 535-552 (2003), Abstract *available at* ScholarWorks.gvsu.edu/Counseling_Articles/2/; Paula R. Pietromonaco, Casey J. DeBuse & Sally I. Powers, *Does Attachment Get Under the Skin? Adult Romantic Attachment and Cortisol Responses to Stress*, 22 Curr. Dir. Psych. Sci. 63-68 (Feb. 1, 2013), Abstract *available at* Ncbi.nlm.nih.gov/pmc/Articles/PMC4192659.

¹⁴ *See, e.g.*, Kristin Wier, *The exercise effect*, 42 APA MONITOR ON PSYCHOLOGY 48 (Dec. 2011), *available at* Apa.org/Monitor/2011/12/Exercise.aspx; Gretchen Reynolds, *How Walking in Nature Changes the Brain*, N.Y. TIMES Well Blog, July 22, 2015, Well.blogs.nytimes.com/2015/07/22/How-Nature-Chages-The-Brain/?_r=0.

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Law Student Well-being and the Tennessee Board of Law Examiners' Response

*by Jeffrey M. Ward, President, Tennessee Board of Law Examiners, and
Lisa Perlen, Executive Director, Tennessee Board of Law Examiners*

on behalf of the full Board:

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William L. Harbison, Secretary Treasurer, Sherard, Roe, Voight & Harbison, PLC (Nashville)
Julian L. Bibb, Stites & Harbison, PLLC (Nashville/Franklin)
Hon. William M. Barker (Ret.), Chambliss, Bahner & Stophel, PC (Chattanooga)

In 2014, preliminary results from a study conducted on Law Student Well-Being, were presented at the October 2014 CoLAP Conference in Nashville, Tennessee. Subsequently, Laura McClendon, Executive Director of the Tennessee Lawyers Assistance Program (TLAP), shared those results with the members of the Tennessee Board of Law Examiners (TBLE) and the Tennessee law school deans. The results were disheartening: 89.8% of respondents reported consuming alcohol, 13.7% used marijuana, 2.5% used cocaine and less than 1% used LSD during the 30 days prior to the survey.

Of the 89.9% consuming alcohol, 43% of respondents admitted to binge drinkingⁱ at least once in the prior two weeks and 22% reported binge drinking two or more times in the same time period. Men were more likely to binge drink than womenⁱⁱ. Based upon the study results, the rate of binge drinking among law students is significantly higher comparable rate of 36% of graduate students (43% vs. 36%) who reported binge drinking at least once in the last two weeksⁱⁱⁱ. Additionally, nearly 25% of respondents who answered the questions in the 2014 study that comprised the CAGE assessment, a widely-used alcoholism screening tool, would be considered to need further substance abuse screening.

As to drug use, other findings^{iv} included increased use of marijuana and cocaine but decreased use of LSD, heroin and other psychedelics. Use of prescription drugs, both with and without a prescription, was studied for the first time. Overall, 14.4% of respondents used prescription drugs without a prescription. More men than women used prescription drugs without a prescription but more women used anxiety, sleep, or stimulant medication with a prescription. Many (12.6%) shared their prescription drugs. Close to half of respondents who reported using prescription drugs without a prescription were using them with greater frequency than they did prior to law school.

The 2014 study also asked questions about depression, anxiety, eating disorders, attention or learning disorder, and suicidal thoughts. The frequency of depression among law students screened was 17.6%. This compares with 14% among graduate students screened by the Healthy Minds dataset from 2007-2014^v. Similarly, 17% of law student respondents who were screened tested positive for anxiety, compared to 9% of graduate students. Of those who reported having

depression or anxiety, a significant percentage reported being diagnosed with the problem only after entering law school.

An important part of the study was the information gathered regarding respondents' attitudes toward seeking help for substance abuse and mental health issues. Most (81%) would seek help from a health professional but only a few (15% or fewer) would consult a Dean. Additionally, while 81% claimed they would seek help from a health professional, only 4% admitted to having actually sought such help^{vi}. Most were concerned that seeking help was a potential threat to bar admissions, job opportunities, academic status, or a social stigma. Many expressed concerns about privacy, financial resources, or the time required for treatment. More than one-third (39%) believed they could handle the problem themselves^{vii}.

Needless to say, the results of the study caused significant concern for the TBLE. Conventional wisdom anecdotally suggested that alcohol and substance abuse was more of an issue for seasoned lawyers who had a drink or three each night after a long day at the office. What we are seeing, however, is that new lawyers are entering the profession with higher rates of alcohol and drug dependency, depression, and anxiety.

In order to raise awareness, representatives from the TBLE and TLAP visit every law school in the state at least once a year to address issues of lawyer and law student well-being. We talk to 1Ls and 3Ls about the need to disclose to the law school, the confidentiality of disclosures to TLAP, and the need to be candid in the bar admissions process. Law students are encouraged to contact TLAP while in law school so that, if monitoring is needed, the process can begin before the bar admissions process. Successful TLAP monitoring while in law school is a positive indicator to the TBLE that the bar applicant is serious about remediating past actions. Since the Supreme Court added Section 10.05 to Tennessee Supreme Court Rule 7 in 2010, 30 bar admission applicants have been conditionally admitted while under a TLAP Monitoring Agreement. Following those conditional admissions, only 2 licensees were reported for non-compliance, and both had their license suspended almost immediately.

In recent years, the TBLE has seen a steep increase in the number of alcohol- and drug-related disciplines and arrests reported by bar applicants. In July 2015, 10% of examination applicants had at least one alcohol or drug offense that resulted in school discipline or a criminal charge of public intoxication, open container violation, possession of a controlled substance or paraphernalia, or DUI. Although many of the criminal charges were dismissed and/or expunged, the prior event itself raised a potential character issue that had to be disclosed to the Board. Patterns of such behavior are of significant concern to the TBLE and often result in a referral by the TBLE to TLAP.

The TBLE hopes that educating our law students about the prevalence of substance abuse, depression and mental health issues in the legal profession will result in increased awareness of these problems and reduction of the stigma that has previously been associated with them in order to assist and encourage our future lawyers to seek the help they need to succeed. We continue to work with the Tennessee law school deans to promote law student wellness so that we license lawyers who have an understanding of the challenges they face and who know that there are avenues for confidential assistance should the need arise.

ⁱ Binge drinking is defined in the study as five or more drinks in a row for men or four or more drinks in a row for women. “Helping Law Students Get the Help They Need: An Analysis of Data Regarding Law Students’ Reluctance to Seek Help and Policy Recommendations for a Variety of Stakeholders”. *The Bar Examiner*, December 2015: 8-15 at page 8.

ⁱⁱ *Id.* at page 8.

ⁱⁱⁱ “The Healthy Minds Study”, <http://healthymindsnetwork.org/>

^{iv} All findings are from J. M. Organ, D. Jaffee, and K.B. Bender, Materials prepared for and presented at CoLAP Conference in Nashville, TN, October 2014. The findings are discussed in detail by the same authors in “Helping Law Students Get the Help They Need: An Analysis of Data Regarding Law Students’ Reluctance to Seek Help and Policy Recommendations for a Variety of Stakeholders”. *The Bar Examiner*, December 2015: 8-15.

^v “The Healthy Minds Study”, <http://healthymindsnetwork.org/>

^{vi} “Helping Law Students Get the Help They Need: An Analysis of Data Regarding Law Students’ Reluctance to Seek Help and Policy Recommendations for a Variety of Stakeholders”. *The Bar Examiner*, December 2015: 8-15, at page 10.

^{vii} *Id.* at pages 10-11.

Is There a Substance Dependent or Addicted Lawyer in Your Life?

And What To Do If There Is.

1. Do You Know a Lawyer who

Drinks or uses drugs a lot?

□ He binges occasionally, reports a few hangovers now and then and talks about the euphoria of getting high or drinking.

□ Over consumes only on occasion but he seems to use alcohol or drugs as an escape from stress or for pure pleasure.

□ When he drinks or uses drugs, his behavior is sometimes embarrassing yet he may continue to assert that he can handle it and that using is just part of life.

□ He would be insulted if someone called him an alcoholic or addict.

□ He may be able to moderate use or stop altogether.

Lacks control over drinking or drugging?

□ She experiences a lack control over her drinking that manifests in drinking or using more than planned or in an increase in the time spent using or drinking.

□ She feels the need to drink or drug routinely, regardless of the circumstances and may be experiencing the phenomenon of craving or symptoms of physical dependence.

□ She experiences blackouts, car accidents and feels guilty about her actions while under the influence.

□ She has a “personality change” when drinking or using.

□ She attempts to control: drinking only wine or beer, limiting her drug use to prescription rather than street drugs, drinking only on weekends or during certain hours of the day or evening, working out a formula for spacing drinks, never using or drinking alone, or never drinking or using with others.

□ She begins to worry about her tolerance to and increasing consumption of alcohol or drugs. She may even try to quit but is unable to stay stopped.

□ She begins to experience signs of withdrawal after a period of not drinking or using: anxiety, shakes, elevated heart rate, nausea, decreased appetite, insomnia, sweating, confusion and in some cases, paranoia. When these symptoms occur, she may need a drink or drug in the morning to quiet those nerves.

□ After serious drinking or using bouts, she is remorseful and wants to stop. As soon as she feels better though, she will begin to think that she can really drink or use moderately next time.

□ She still meets responsibilities fairly well on the job or at home. The idea that drinking will probably become progressively worse and may cause the loss of family, job, or the affection of others seems ridiculous to her.

□ She admits that she would like to stop drinking. Tomorrow.

Has suffered negative consequences because of drinking?

□ These drinkers have begun to experience adverse consequences as a result of their drinking or drugging. They have lost friends, experienced marital and family difficulties, separation or divorce.

□ They tend to isolate and devalue personal relationships. If they socialize at all, they seek out people who drink and drug similarly.

□ They are often underemployed, have moved from job to job, have been fired, or have walked off the job.

□ They have tried “geographical cures” by moving from job to job, city to city or state to state hoping that each situation will be different.

□ They have sought help from therapists or doctors and may even have been to treatment, hospitals, and may even have tried AA or NA or CA.

□ They know that they cannot drink or use drugs like others but are unable to understand why. They honestly want to stop but cannot.

□ In searching for a path to sobriety, they become increasingly desperate.

Usually, they have tried some form of counseling, a special diet or vitamin therapy and for a little while the situation may have improved, but then they return to old patterns and the progression downward continues.

□ They lose all interest in constructive social relationships, in the world around them, and perhaps even in life itself.

Seems beyond help?

□ By now, this individual has been in one hospital or treatment center after another.

□ He has been arrested, incarcerated, grieved against or disbarred.

□ There is evidence of physical deterioration and illness including hepatitis, pancreatitis, and cirrhosis and withdrawal symptoms of hallucinations, seizures and delirium tremors (DTs).

□ He is volatile, impulsive, angry, violent, appears dangerous or insane and oblivious to reality when drunk or high.

□ Friends, family, colleagues want nothing to do with this drunk/addict.

□ The courthouse gossip is rampant.

□ People may say that he is beyond help and have stopped trying to help.

2. The Truth.

There are many lawyers representative of these four categories. In fact, it's estimated that , at a minimum, 10-12 percent of all lawyers are challenged by substance abuse or dependency. There are also many lawyers who have

recovered from substance dependency and addiction. TLAP staff, its volunteers and the family, friends and colleagues of lawyers with alcohol or drug problems know what it is like to live with and work around someone challenged by addiction and dependency. We also know that recovery is possible. We hope. We act. We don't give up.

3. An incurable illness.

There are many paths to dependency and addiction. Some drink in an out-of-control way from their first drink. Some are vulnerable to the illness because of a genetic predisposition. Others become dependent or addicted through decades of use. Some are daily drinkers. Some only indulge on the weekend. Others may be able to abstain for long periods.

The hallmark behaviors of dependency and addiction include continued and compulsive behavior despite medical or adverse consequences and loss of control. The behaviors are supported by an elaborate defense system designed to sustain use, escape the consequences of alcohol or drug use and maintain self-esteem. Manifestations of this defense system include denial, minimization and projection of blame.

The people challenged by dependency or addiction are sick and suffering from a disease for which there is no known cure. They will never be able to drink or drug moderately or non-addictively for any sustained period. It is also a progressive, multi-systemic, chronic and terminal illness that affects physical, mental, emotional and spiritual health and development. Because of these characteristics, they must learn to abstain from alcohol and drugs completely to lead a normal life. Every

man and woman can achieve remission, or recovery.

4. What can you do?

So you've been read about alcoholism and drug addiction in the Texas Bar Journal, you've done your own internet research at reputable sites, you've witnessed some behaviors that you've identified as possible symptoms of alcoholism or drug addiction in your colleague and now you want to do something. You may want to explain to your friend that you know that alcoholism is an illness. You now know that treatment works so you want to urge your colleague to get an assessment, go to treatment or even head straight for the nearest A.A. meeting. But will this work?

Sometimes, it does. There are those who call for help on their own, go to AA, go to out-patient or in-patient treatment and stop drinking or drugging. But the truth is that most active alcoholics and drug addicts are *not* ready and willing to quit simply because someone suggests it. TLAP's experience is that lawyers may be particularly resistant to admitting a drinking or drug problem.

Here's why: Research suggests that the illness is firmly rooted in brain chemistry and that the compulsion to drink or drug, located in the primal midbrain, trumps the cerebral cortex's 21st century messages to stop. In short, in his mind, the need to drink or use may literally seem like a matter of life or death.

5. When is the "right time" to intervene?

Conventional theory indicates that a person must either be ready or “hit bottom” before they will take action to stop drinking. But how do you know if that person has hit bottom and may be receptive to your concerns? No one really knows. You may think your colleague should be ready. But what constitutes a bottom for one person will not necessarily constitute a signal to stop in another. In short, one person’s moment of clarity where the decision is made to seek help is individual as one’s fingerprints. Story after story indicates that the events that precipitated people to seek help are many: family intervention, drunken public behavior, police intervention, headlines in the newspaper or a look from your child on the morning after.

So you may try to get the individual’s attention in myriad ways and times. Of course, there are some general guidelines:

- Get some education about the illness that you’re up against – Al-Anon (a 12-step groups for friends and family of alcoholics/addicts), therapists, doctors, TLAP and AA members all have some practical experience with the disease and may be helpful.
- Get assistance and coaching from the experts. Again, members of AA, NA, CA in recovery, TLAP staff and peer volunteers, local treatment centers, knowledgeable therapists, doctors and professional interventionists are some great resources. Someone who has recovered from the same illness may be an ally when you have these conversations. They have instant credibility; you may not. Other interventions come in a variety of flavors from intimate one-on-one conversations

to 12-step calls, peer interventions, “Johnson Model” interventions, invitational model interventions and so on and so on.

- Leverage a bad day. Timing is sometimes important. Approaching someone who is struggling with the negative consequences of his addiction or dependency may be more receptive to your suggestions than during the “good” times.
- Don’t try to talk to someone when he is impaired. It doesn’t work.
- Don’t label the individual with a diagnosis. Expressions of concern, offers of hope and specific ideas for a solution are helpful. Speaking honestly about how the individual’s drinking or drug use has affected you, giving specific examples, is recommended. Labeling someone an addict or an alcoholic will backfire.
- Be armed with solutions. Offer ideas about ideas about how to get help. Have phone numbers available and offer to get the individual to help immediately. If your friend seems even remotely receptive, act quickly; the small opening in the hard shell of addiction won’t stay open long. You may not get another chance.
- Don’t enable. This means: Never do for John what John can do for himself. Stop protecting him from consequences. Be honest: Don’t cover up, lie, stand in or do his work. Don’t ignore the problem. Don’t be a scapegoat. Don’t try to control her drinking or his drug use. Respect his dignity. Be realistic about events. Allow success or failure. Share your hope for recovery. Participate in his good behavior. Offer concrete solutions.

Take a look at your own behaviors and if necessary, get help for yourself. Check out Al-Anon.

6. The Heartbreak of Dependency and Addiction.

It may take some time to get your friend's attention. He may protest that his problems are different and that treatment or AA is not necessary or right for him. She may argue that her drinking isn't that bad. She will often point out that she is a long way from the bottom of the ladder. She may simply continue to insist that she can stay clean and sober on her own.

Anyone who knows or cares about someone with a drug or alcohol problem may find these reactions and evasions bitter pills to swallow. The simple truth is that you can't always force recovery on someone. But you can be available for the moments when your friend or family member may be more receptive to the idea of getting help. If the person you care about refuses to accept help, there are things you can do:

- Be prepared for the next opportunity. Get educated about available resources: TLAP, therapists, doctors, treatment centers, AA, CA, NA. Call TLAP to talk to us confidentially about the issues. Visit a local treatment center or get online and search the internet to become acquainted with local and national treatment options for professionals. Attend an open meeting of AA, CA or NA to get some personal knowledge about the program. Be in the best position to help when the time comes.

- Cultivate confidence and patience to encourage him to begin the process of recovery.

- Draw appropriate boundaries. Sometimes, because of the disruption caused or because the situation has become intolerable, you may decide to detach from the situation and leave the individual to face his or her problems alone. Remember that detachment is different from abandonment. A therapist or the principles of Al-Anon can be helpful allies in making these decisions and sticking to them. There are times when you've done enough.

7. Hope and Help.

Whether you are the husband, wife, employee, judge, law student, law partner, law firm associate, friend or colleague of a person challenged by drugs or alcohol, your understanding of the nature of the problem can play a vital part in helping that individual to achieve and maintain recovery. Please remember that there is hope and there is help. You are not alone.

What to do when a Colleague is depressed

I. Find Out More About Depression.

What is depression?

Depression is more than the blues or the blahs; it is more than the normal, everyday ups and downs. When that “down” mood, along with other symptoms, last for more than a couple of weeks, the condition may be clinical depression. Clinical depression is a serious health problem that affects the total person. In addition to feelings, it can change behavior, physical health, appearance, professional performance, social activity and the ability to handle everyday decisions and pressures.

What causes clinical depression? *We do not know all the causes of depression but there seem to be biological and emotional factors that may increase the likelihood that an individual will develop a depressive disorder. Research over the past decade strongly suggests a genetic link to depressive disorders; depression can run in families. Difficult life experiences and certain personal patterns such as difficulty handling stress, low self-esteem, or extreme pessimism about the future can increase the chances of becoming depressed.*

How common is it? *Clinical depression is a lot more common than most people think. It will affect more than 19 million Americans this year. Early 1990’s research indicated that lawyers might be more vulnerable to depression than other professionals. Almost half of all callers to the Texas Lawyers’ Assistance Program hotline talk about symptoms that sound like depression.*

Is it serious? *Depression can be very serious. Suicide is often linked to depression. Male lawyers in the United States are two times more likely to commit suicide than men in the general population.*

Are all depressive disorders alike?

There are various forms or types of depression. Some people experience only one episode of depression in their whole life, but many have several recurrences. Some depressive episodes begin suddenly for no apparent reason, while others can be associated with a life situation or stress. Sometimes people who are depressed cannot perform even the simplest daily activities like getting without of bed or getting dressed. Others go through the motions but it is clear that they are not acting or thinking as usual. Some people suffer from bipolar disorder in which their moods cycle between two extremes – from the depth of desperation to frenzied talking or activity or grandiose ideas about their own competence.

Can it be treated? *Yes, depression is treatable. Between 80 and 90 percent of people with depression can be helped. There are a variety of antidepressant medications and psychotherapies that can be used to treat depressive disorders. Some people with milder forms may do well with psychotherapy alone. People with moderate to severe depression most often benefit from antidepressants. Most do best with combined treatment: medication to gain relatively quick symptom relief and psychotherapy to learn more effective ways to deal with life’s problems, including depression.*

The most important step toward overcoming depression – and sometimes the most difficult – is asking for help.

Why don't people get the help they need? *Often people don't know they are depressed so they don't ask for or get the right help.* Most people fail to recognize the symptoms of depression in themselves or in other people. Also, depression can sap energy and self-esteem and thereby interfere with a person's ability or wish to get help.

2. Be Able To Tell Fact From Fiction.

Myths about depression often separate people from the effective treatments now available. Friends and colleagues need to know the facts. Some of the most common myths are these:

Myth: He's such a great lawyer, he just can't be depressed! **Fact:** Lawyers get depression too. **Intelligence, success or position in the community are not barriers to depression.** Depression can affect people of any age, race, ethnic or economic group.

Myth: Lawyers who claim to be depressed are whiners and weak and just need to pull themselves together. There's nothing that we can do to help. **Fact:** Depression is not a weakness but a serious health disorder. People who are depressed need professional treatment. A trained therapist or counselor can help them learn more positive ways to think about themselves, change behaviors, cope with stress and problems, or handle relationships. A physician can prescribe medications to help relieve the symptoms of depression. For most a combination of

psychotherapy and medication is beneficial.

Myth: Talking about depression only makes it worse. **Fact:** Talking about things may help a friend or colleague recognize the need for professional help. By showing friendship and caring concern and by giving uncritical support, you can encourage your friend or colleague to talk to another trusted adult, TLAP or mental health professional about getting treatment.

3. Know the Symptoms.

The first step toward defeating depression is to define it. People who are depressed often have a hard time thinking clearly or recognizing their own symptoms. They may need your help. Check the following boxes if you notice a friend or colleague with any of these symptoms persisting longer than two (2) weeks:

Do they express feelings of:

- ☐ sadness or emptiness?
- ☐ hopelessness, pessimism or guilt?
- ☐ helplessness or worthlessness?

Do they seem:

- ☐ unable to make decisions?
- ☐ unable to concentrate and remember?
- ☐ to have lost interest or pleasure in ordinary activities – like sports, hobbies, social activities?
- ☐ to have more problems at work and at home?

Do they complain of ...

- ☐ loss of energy and drive – so they seem “slowed down?”
- ☐ trouble falling asleep, staying asleep, or getting up?

- ☐ appetite problems: are they losing or gaining weight?
- ☐ headaches, stomach aches, or back aches?
- ☐ chronic aches and pains in joints and muscles?

Has their behavior changed suddenly so that...

- ☐ they are restless and more irritable?
- ☐ they want to be alone most of the time?
- ☐ they've started missing work, deadlines, appointments or dropped hobbies or activities?
- ☐ you think they may be drinking heavily or taking drugs?

Have they talked about

- ☐ death
- ☐ suicide – or have they attempted suicide?

4. How To Help.

If you checked several of the boxes above, your friend or colleague may need help. The most important thing you can do for someone who is depressed is to get him or her to a professional for an appropriate diagnosis and treatment. Don't assume that someone else is taking care of the problem. Negative thinking, inappropriate behavior or physical changes need to be addressed as quickly as possible.

Your help may include the following:

- *Give suggestions of names and phone numbers of reputable therapists or psychiatrists.

- *Encourage or help the individual to make an appointment with a professional and accompany the individual to the doctor.

- *Encourage the individual to stay with treatment until symptoms begin to abate.

- *Encourage continued communication with doctor about different treatment options if no improvement occurs.

- *Offer emotional support, understanding, patience, friendship and encouragement.

- *Engage in conversation and fellowship. Listen.

- *Refrain from disparaging feelings; point out realities and offer hope.

- *Take remarks about suicide seriously, do not ignore them and don't agree to keep them confidential. Report them to the individual's therapist or doctor if your friend or colleague is reluctant to discuss the issue with you or her/his doctor.

- *Invite the individual for walks, outings, to the movies and other activities. Be gently insistent if your invitation is refused.

- *Encourage participation in some activity that once gave pleasure – hobbies, sports, religious or cultural activities

*Don't push the depressed person to undertake too much too soon; too many demands may increase feelings of failure.

*Eventually with treatment, most people get better. Keep that in mind and keep reassuring the depressed person that with time and with help, he or she will feel better.

5. Where To Get Help.

The Texas Lawyers' Assistance Program* can help you in a variety of ways by providing crisis counseling; education and training resources; assistance with identifying reputable mental health professionals and treatment options in your community; strategies and coaching for conversations with your friend or colleague and information about suicide prevention resources. In certain circumstances, TLAP may be able to directly assist in your conversations with your colleague or friends.

If you don't access TLAP, please consider contacting other resources who can help prepare you with names, phone numbers and other information about where to send your friend or colleague for assessment and treatment. These resources may include family doctors, psychiatrists, psychologists, social workers, licensed professional counselors, community mental health organizations, hospital psychiatric departments and outpatient clinics, university or medical school affiliated programs, state hospital outpatient clinics, family service and social agencies, clergy, private clinics, employee assistance programs and local medical and/or psychiatric societies.

6. Act now.

Early and professional treatments for depression can lessen the severity of the illness, reduce the duration of symptoms, and may also prevent additional bouts of depression.

*The Texas Lawyers' Assistance Program (TLAP) is a confidential crisis counseling and referral program that helps Texas lawyers, judges and law students who are challenged by substance use and other mental health disorders, including clinical depression, anxiety and stress related concerns.

Please call TLAP at 800-343-8527 for more information.

This article was adapted from the National Institutes of Mental Health publications, "What to do when a friend is depressed" (2001) and "Depression" (2002).

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